

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

April 20, 2021
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 additional comments on proposed changes to Title 172, Chapter 143 of the Nebraska Administrative Code (NAC) – *Practice of Podiatry*. The proposed changes streamline the language regarding continuing competency requirements, including by removing repetitive regulatory language that is found in 172 NAC 10. The proposed changes also set out additional requirements regarding initial licensure and unprofessional conduct and remove all duplicative statutory language from the regulations.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

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#.

Interested persons may provide written comments by mail, fax, or email, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8223. 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: 143	Date prepared: 3-8-21
Subject: Practice of Podiatry	Telephone: (402)471-4915

Type of Fiscal Impact:

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

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public: [There is no change in fees to the regulated public.](#)

If indeterminable, explain why:

DRAFT DATE
08-26-2020

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 143

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 143 PRACTICE OF PODIATRY

001. SCOPE AND AUTHORITY. These regulations apply to licensure of Podiatrists as defined by the Podiatry Practice Act, Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 38-3001 to 38-3012; and the Uniform Credentialing Act, Neb. Rev. Stat. §§ 38-101 to 38-1,142.

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

002.01 ANGOFF METHOD. A method of determining passing scores based on aggregate information obtained by having judges predict the probability that a hypothetical minimally competent candidate will correctly answer items in a test is the Angoff Method.

002.02 APPROVED CLINICAL FACILITY. A clinical facility sponsored by an accredited college of podiatry is an approved clinical facility.

002.03 APPROVED CONTINUING COMPETENCY ACTIVITIES. Approved continuing competency activities are activities that ensure the maintenance of knowledge and skills necessary to competently practice podiatry; the utilization of new techniques based on scientific and clinical advances; and the promotion of research to assure expansive and comprehensive services to the public. The activities must meet the criteria for approval established by the Board to be recognized for licensure renewal.

002.04 HOUR. An hour is a period of 50 minutes of formal instruction, otherwise known as a "contact hour."

002.05 PROVIDER. A provider is an institution or individual that presents continuing education programs to licensees and requests approval from the Board of those programs.

002.06 ADVANCED POSTDOCTORAL SURGICAL RESIDENCY PROGRAM. An advanced postdoctoral surgical residency program is a surgical residency program approved by the Council on Podiatric Medical Education, or approved by another body that approves podiatric residency programs that maintains standards for approval that are equivalent to those of the Council on Podiatric Medical Education.

003. LICENSE REQUIREMENTS. To obtain a license, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. § 38-3008, 172 NAC 10, and this chapter.

003.01 LICENSE BY EXAMINATION. An applicant applying by examination must submit the following:

- (A) Have an Official Transcript submitted to the Department by the issuing institution.
- (B) Request detailed score reports showing successful completion of one of the following:
 - (i) The Podiatric Medical Licensing Examination for States (PMLexis) given by the National Board of Podiatric Medical Examiners with a passing score as determined by using the Angoff Method or other comparable criterion referenced scoring method; or
 - (ii) The National Board of Podiatric Medical Examiners Examination Part III with a score of 75 or above; and
- (C) Indicate whether or not the applicant holds a Drug Enforcement Administration (DEA) Registration.

003.02 LICENSE BY RECIPROCITY. An applicant applying by reciprocity must meet the requirements of 172 NAC 143-003.01 and submit the following:

- (A) Direct source verification of certification of a credential to practice podiatry submitted to Department by the jurisdiction; and
- (B) Documentation that the applicant has been actively engaged in the practice of podiatry or in an accepted residency or graduate training program for at least 1 of the 3 years immediately preceding the date of the application for Nebraska licensure.

004. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10. All Podiatry licenses expire on April 1 of each even-numbered year.

005. CONTINUING COMPETENCY. Each podiatrist must meet the requirements of the Podiatry Practice Act, 172 NAC 10, and this chapter for continuing competency.

005.01 GENERAL REQUIREMENTS. On or before April 1 of each even-numbered year thereafter, each podiatrist who is in active practice in the state of Nebraska must **complete 48 hours of continuing education approved by the Council of Podiatric Medical Education during the preceding 24 month period.**

- ~~(A) Complete 48 hours of approved continuing education during the preceding 24 month period.~~
- ~~(B) Submit to the Department an attestation that licensee has met the continuing competency for the 24 months immediately preceding the expiration date.~~
- ~~(C) Be responsible for:~~

 - ~~(i) Verifying with the Department that the continuing education programs are approved by the Board;~~
 - ~~(ii) Maintaining documentation of attendance at or presentation of approved continuing education programs related directly to the theory or clinical application of theory pertaining to the practice of podiatry. Such programs include:~~

 - ~~(1) State and national meetings, i.e., a meeting of the American Podiatric Medical Association.~~
 - ~~(2) One hour credit for each hour of attendance, and only the portion of such meeting which meets the definition of continuing education can be accepted for credit.~~
 - ~~(3) Formal education courses which relate directly to the theory or clinical~~

- ~~application of theory pertaining to the practice of podiatry:~~
~~(a) One hour credit for each hour of attendance.~~
~~(4) Podiatric college-sponsored courses in continuing education in podiatry:~~
~~(a) One hour credit for each hour of attendance.~~
~~(5) Podiatric specialty society sponsored courses, i.e., the American College of Foot Surgeons, the American College of Foot Orthopedists, and the American College of Foot Roentgenology:~~
~~(a) One hour credit for each hour of attendance.~~
~~(6) Home study with testing mechanism. Licensee may complete a maximum of 16 hours of the continuing education requirements by home study during each 24-month renewal period. The home study program must have a testing mechanism and must be approved by the Board prior to completion of the home study continuing education program:~~
~~(a) One credit hour for each hour of study; no more than 16 credit hours of this type of continuing education may be counted within a 24-month period.~~
~~(iii) Maintaining documentation of presentation of an approved continuing education program. A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program.~~

005.02 SUBJECT MATTER THAT IS NOT ACCEPTABLE. Practice management programs and education provided by a business entity for the purpose of promotion of its products or services and similar courses or training will not be accepted for continuing competency credit.

006. UNPROFESSIONAL CONDUCT. Unprofessional conduct is set out in Neb. Rev. Stat. § 38-179, this chapter which includes the following:

- (A) Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the department;
- (B) Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
- (D) Refusal to provide professional service to a person because of such person's race, color, religion, sex, national origin, ethnicity, disability or familial status;
- (E) Refusal to undergo an examination for evaluation of competency as required by the board;
- (F) Practicing podiatry under a false or assumed name;
- (G) Advertising for health care services that does not provide accurate information on the type of credential(s) held or includes deceptive or misleading information pursuant to Neb. Rev. Stat. §§ 38-124
- (H) Advertising a fee for service that does not state a specific period of time the fee will be honored; if a time period is not specified it must be offered for a reasonable amount of time of at least 20 calendar days; or
- (I) Advertising as a specialist without being certified by a specialty board as recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association, unless the practitioner has disclosed in the advertisement that they are not board certified.

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

DRAFT DATE
08-26-2020

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 143

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

~~TITLE 172 — NEBRASKA DEPARTMENT OF HEALTH
PROFESSIONAL AND OCCUPATIONAL LICENSES REGULATIONS~~

~~CHAPTER 143 — REGULATIONS GOVERNING THE PRACTICE OF PODIATRY~~

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TITLE 172 ————— PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 143 ————— PRACTICE OF PODIATRY

~~143-001 SCOPE AND AUTHORITY: These regulations apply to licensure of Podiatrists as defined by Neb. Rev. Stat. §§ 71-173 to 71-176.03 and the Uniform Licensing Law.~~

~~143-002 DEFINITIONS:~~

~~Accredited College of Podiatry means a school or college which maintains the standards approved by a regional or professional accrediting organization that is recognized by the Council of Postsecondary Accreditation of the United States Department of Education and is approved by the Department upon recommendation of the Board.~~

~~Act means Neb. Rev. Stat. §§ 71-173 to 71-176.03.~~

~~Angoff Method means a method of determining passing scores based on aggregate information obtained by having judges predict the probability that a hypothetical minimally competent candidate will correctly answer items in a test.~~

~~Approved Clinical Facility means a clinical facility sponsored by an accredited college of podiatry.~~

~~Approved continuing competency means activities that ensure the maintenance of knowledge and skills necessary to competently practice podiatry; the utilization of new techniques based on scientific and clinical advances; and the promotion of research to assure expansive and comprehensive services to the public. The activities must meet the criteria for approval established by the Board to be recognized for licensure renewal.~~

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

~~Board means the Board of Podiatry.~~

~~Completed application means an application with all of the information requested on the application filled in, the signature of the applicant verified, fees and all required documentation submitted.~~

~~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.~~

~~Hour means a period of 50 minutes of formal instruction, otherwise known as a "contact hour."~~

~~Inactive status means the voluntary termination of the right or privilege to practice podiatry. The licensee retains the right or privilege to represent himself/herself as having an inactive license.~~

~~Lapsed status means the voluntary termination of the right or privilege to represent oneself as a licensed person and to practice podiatry.~~

~~Licensee means an individual licensed to practice podiatry in Nebraska.~~

~~NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 143.~~

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

~~Podiatric services are those services provided by a podiatrist as described in Neb. Rev. Stat. §§ 71-173 through 71-176.03.~~

~~Person means individual, corporation, partnership or other for-profit or not-for-profit entity.~~

~~Provider means an institution or individual that presents continuing education programs to licensees and requests approval from the Board of those programs.~~

~~Suitable Advanced Postdoctoral Surgical Residency Program means a surgical residency program approved by the Council on Podiatric Medical Education, or approved by another body that approves podiatric residency programs that maintains standards for approval that are equivalent to those of the Council on Podiatric Medical Education.~~

~~Verified means sworn to before a Notary Public.~~

~~143-003 REQUIREMENTS FOR ISSUANCE OF LICENSE: Any person, except those listed in Neb. Rev. Stat. § 71-174, who wishes to practice and/or represent himself/herself as a podiatrist must be licensed as a podiatrist. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.~~

~~143-003.01 Procedures for Licensure as a Podiatrist by Examination: An applicant for a license to practice podiatry on the basis of an examination must:~~

- ~~1. Have graduated from an accredited college of podiatry;~~
- ~~2. Pass each test in Parts I and II of the examination given by the National~~

~~Board of Podiatric Medical Examiners (NBPME) with a score of 75 or above.~~

- ~~3. Pass one of the following:
 - ~~a. The Podiatric Medical Licensing Examination for States (PMLexis) given by the NBPME with a passing score as determined by using the Anghoff Method or other comparable criterion referenced scoring method; or~~
 - ~~b. The National Board of Podiatric Medical Examiners (NBPME) Part III with a score of 75 or above.~~~~
- ~~4. Effective September 6, 1991, scores on this examination obtained more than 30 days prior to graduation, within 30 days of graduation or following graduation will be accepted.~~
- ~~5. Complete a minimum one-year postgraduate residency program approved by the Council on Podiatric Medical Education.~~
- ~~6. Have good moral character and have attained at least the age of majority (Neb. Rev. Stat. § 43-2101. All persons under 19 years of age are declared to be minors, but in case any person marries under the age of 19 years, his/her minority ends); and~~
- ~~7. Submit to the Department:
 - ~~a. A verified, completed application which includes the following information. The application may be submitted on a form provided by the Department or on an alternate format. Only applications which are complete will be considered.
 - ~~(1) Personal information: legal name, date of birth, Social Security Number, place of birth, mailing address, telephone number (optional), e-mail address (optional).~~
 - ~~(2) Education: name and location of accredited podiatry college and date of graduation.~~
 - ~~(3) Indicate whether you are applying by examination or reciprocity.~~
 - ~~(4) All applicants must respond to the following questions by answering yes or no. If the answer is yes to any question, explain the circumstances and outcome.
 - ~~(a) Have you ever been convicted of a misdemeanor or felony?~~
 - ~~(b) Have you ever been denied a license or the right to take an examination?~~
 - ~~(c) Has your Podiatry license in any state ever been suspended, revoked, placed on probation or disciplined in any manner?~~
 - ~~(d) Have you ever voluntarily surrendered or limited in any way a license issued to you by a licensing or disciplinary authority?~~
 - ~~(e) Have you ever been requested to appear before any licensing agency?~~~~~~~~

~~(f) — Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?~~

~~(g) — Are you aware of any pending disciplinary actions against your license in any jurisdiction?~~

~~(h) — Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?~~

~~(i) — 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?~~

~~(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) — During the last ten years, have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?~~

~~(l) — Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?~~

~~(m) — Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?~~

~~(n) — Have you ever surrendered your state or federal controlled substances registration?~~

~~(o) — Have you ever had your state or federal controlled substances registration restricted in any way?~~

~~(p) — Have you ever been notified of any malpractice claim against you?~~

~~(5) — Indicate whether or not you have been licensed as a podiatrist in another state. If yes, list all other states where you have been or are currently licensed, including license number, issuance date and expiration date.~~

~~(6) — If applying by reciprocity: indicate the name of the agency that issued your initial license to practice podiatry and the name of the written examination administered; indicate whether or not you have been in the active and continuous practice of podiatry for one year of the three years immediately preceding the date of application; and list the location, address and dates actively engaged in the practice of podiatry in another jurisdiction.~~

~~(7) — Indicate whether or not you hold a Federal Controlled Substances Registration.~~

~~(8) — Notarized statement from the applicant that s/he is of good moral character and that the statements on the application are true and complete.~~

- b. ~~— An official transcript from an accredited college of podiatry showing graduation from the college;~~
- c. ~~— Official documentation of the scores obtained on Parts I and II of the examination given by the NBPME.~~
- d. ~~— Official documentation sent directly from the NBPME of the scores obtained on the PMLexis or the NBPME Part III.~~
- e. ~~— Official documentation of completion of a minimum one-year postgraduate residency program approved by the Council on Pediatric Medical Education.~~
- f. ~~— The required licensure fee; and~~
- g. ~~— A copy of birth certificate, marriage license, driver's license or other valid verification of age.~~

143-003.02 Procedures for Licensure as a Podiatrist Based on a License

In Another Jurisdiction: ~~An applicant who is licensed as a podiatrist in another jurisdiction must:—~~

- 1. ~~— Meet the requirements of 172 NAC 143-003.~~
- 2. ~~— Be currently licensed to practice podiatry in another state or jurisdiction; and~~
- 3. ~~— Submit to the Department:~~
 - a. ~~— All documentation pursuant to 172 NAC 143-003.01 item 7; and~~
 - b. ~~— The following documentation from the licensing agency of the jurisdiction where the applicant was initially licensed:~~
 - (1) ~~— A certification that the applicant is duly licensed, that his/her license was based on an examination, that his/her license has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;~~
 - (2) ~~— The nature of disciplinary actions, if any, taken against the applicant's license; and~~
 - (3) ~~— The date of the applicant's license.~~
 - c. ~~— Documentation that the applicant has been actively engaged in the practice of podiatry or in an accepted residency or graduate training program for at least one of the three years immediately preceding the date of the application for Nebraska licensure.~~

143-003.02A ~~The Board will review the documents submitted to determine if the applicant's license issued by the other jurisdiction was based upon requirements which are comparable to those maintained in podiatry in Nebraska and will recommend to the Department to issue or deny the license.~~

143-003.03 ~~The Department will act within 150 days upon all completed applications for licensure.~~

143-003.04 ~~When a license will expire within 180 days after its initial issuance date, the~~

Department will collect one fourth of the initial licensing fee, and the license will be valid until the next subsequent renewal date.

143-004 EXAMINATION ELIGIBILITY

143-004.01 To be eligible to sit for the NBPME Part III for Nebraska, an applicant must:

1. Have met all the requirements for licensure that are specified in 172 NAC 143-003.01 or 143-003.02, except 143-003.01 item 3.
2. Submit a complete application for licensure pursuant to 172 NAC 143-003.01 item 7 or 143-003.02 item 3 no later than 30 days prior to the scheduled examination date.

143-005 RESERVED

143-006 PROCEDURES FOR RENEWAL OF LICENSE: All licenses issued by the Department under the Act and these regulations expire on April 1 of each even-numbered year.

143-006.01 Renewal process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements pursuant to 172 NAC 143-008;
2. Pay the renewal fee pursuant to 172 NAC 143-013;
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; and
 - c. Attestation of completing 48 hours of continuing education earned with 24 months of the date of expiration or application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
 - d. If any disciplinary action was taken against the applicant's license 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.~~

~~143-006.02 First Notice: At least 30 days before April 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.~~

~~143-006.02A 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 as prescribed in 172 NAC 143-013;~~
- ~~6. — The number of continuing education hours required for renewal; and~~
- ~~7. — The option to place the license on either inactive or lapsed status.~~

~~143-006.02B 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 48 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency; and~~
- ~~5. — Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).~~

~~143-006.02C 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.
143-006.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on inactive or lapsed status.~~

~~143-006.03 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 the requirements of 172 NAC 143-006.01 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 143-014 if s/he practices after the expiration date;~~
- ~~4. That upon receipt of the renewal fee, together with an additional late fee of 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 143-007.~~

~~143-006.03A 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 48 hours of continuing education earned within 24 months of the date of expiration or application for waiver of continuing competency; and~~
- ~~6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).~~

~~143-006.03B 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.

~~143-006.03C~~ 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.

~~143-006.04~~ 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 or hearing and make proper record of the revocation.

~~143-006.05~~ 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 in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

~~143-006.06~~ When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status after expiration, 172 NAC 143-006.04 and 172 NAC 143-006.05 will not apply.

~~143-006.07~~ The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

~~143-006.08~~ An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 143-014, or such other action as provided in the statutes and regulations governing the credential.

~~143-007 LICENSURE REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS:~~
The Department will revoke a license within 30 days of its expiration when the licensee fails to meet the renewal requirements.

~~143-007.01~~ Revocation for Non-payment of Renewal Fee.

~~143-007.01A~~ When a licensee fails to pay the required renewal fee or fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the license without further notice or a hearing.

~~143-007.01A1~~ The revocation notice specifies that the:

- ~~1. Licensee was given first and second notice of renewal requirements and the respective dates for these notices;~~
- ~~2. Licensee failed to renew the license or to request that his/her license be placed on inactive or lapsed status;~~
- ~~3. Department has revoked the license;~~
- ~~4. Licensee has a right to appeal the revocation; and~~
- ~~5. Licensee has a right to reinstatement of the license.~~

~~143-007.02~~ Revocation for Failure to Meet Continuing Competency Requirements:

~~143-007.02A~~ When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirement for licensure renewal, the Department revokes his/her license after notice and opportunity for a hearing.

~~143-007.02A1~~ The revocation notice for failure to meet continuing education requirements specifies that the:

- ~~1. Licensee was given first and second notice of failure to meet the continuing education requirement and the respective dates of each notice;~~
- ~~2. Licensee either failed to renew the license or to have his/her license placed on inactive or lapsed status;~~
- ~~3. Department will revoke the license within 30 days of the date of the notice unless the licensee requests in writing a hearing;~~
- ~~4. Licensee has a right to appeal the revocation; and~~
- ~~5. Licensee has a right to reinstatement of the license.~~

~~143-008~~ CONTINUING COMPETENCY

~~143-008.01~~ General Requirements for Licensee: On or before April 1, 1986, and on or before April 1 of each even-numbered year thereafter, each podiatrist who is in active practice in the State of Nebraska must:

~~143-008.01A~~ Complete 48 hours of approved continuing education during the preceding 24 month period.

~~143-008.01B~~ Submit to the Department an attestation that licensee has met the continuing competency for the 24 months immediately preceding the expiration date.

~~143-008.01C~~ Be responsible for:—

- ~~1. Verifying with the Department that the continuing education programs are approved by the Board;~~
- ~~2. Maintaining documentation of attendance at or presentation of approved continuing education programs related directly to the theory or clinical application of theory pertaining to the practice of~~

~~podiatry. Such programs include:~~

- ~~a. State and national meetings, i.e., a meeting of the American Podiatric Medical Association.~~
- ~~b. One hour credit for each hour of attendance, and only the portion of such meeting which meets the definition of continuing education can be accepted for credit.~~
- ~~c. Formal education courses which relate directly to the theory or clinical application of theory pertaining to the practice of podiatry:~~

~~(1) One hour credit for each hour of attendance.~~

- ~~d. Podiatric college-sponsored courses in continuing education in podiatry:~~

~~(1) One hour credit for each hour of attendance.~~

- ~~e. Podiatric specialty society sponsored courses, i.e., the American College of Foot Surgeons, American College of Foot Orthopedists, American College of Foot Reentgenology:~~

~~(1) One hour credit for each hour of attendance.~~

- ~~f. Home study with testing mechanism. Licensee may complete a maximum of 16 hours of the continuing education requirements by home study during each 24 month renewal period. The home study program must have a testing mechanism and must be approved by the Board prior to completion of the home study continuing education program.~~

~~(1) One credit hour for each hour of study; no more than 16 credit hours of this type of continuing education may be counted within a 24 month period.~~

- ~~g. Examples of nonacceptable subject matter include, but are not limited to, practice management programs and education provided by a business entity for the purpose of promotion of their products or services.~~

- ~~3. Maintaining documentation of presentation of an approved continuing education program. A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program.~~

~~143-008.01D If applicable, submit an application for waiver of the education requirement pursuant to 172 NAC 143-008.03.~~

~~143-008.02 Approval of Continuing Education Programs.~~

~~143-008.02A~~ The Board will evaluate applications from providers of continuing education programs in order to determine if approval is to be granted or denied. To be approved, a continuing education program must meet the following criteria:

- ~~1. The program must be at least one hour in duration;~~
- ~~2. The program's objectives must relate directly to the theory or clinical application of theory pertaining to the practice of podiatry;~~
- ~~3. The presenter of the program must be qualified by education, experience or training; and~~
- ~~4. Programs must be open to all podiatrists licensed in Nebraska.~~

~~143-008.02B~~ The provider must submit to the Board an application provided by the Department or on an alternate format. Only applications which are complete will be considered. The following information must be included with the application:

- ~~1. A description in detail of program content;~~
- ~~2. A description of program objectives;~~
- ~~3. A description of the qualifications of each presenter;~~
- ~~4. The number of hours for which approval is requested;~~
- ~~5. The name, address, and telephone number of the provider and its administrator, operating officer and proctor;~~
- ~~6. A description of the process the provider uses to verify attendance by the licensee;~~
- ~~7. A sample copy of the documentation the provider issues to the licensee as proof of attendance at the program;~~
 - ~~a. Certificates verifying attendance at approved courses must contain at least the following information:
 - ~~(1) Name of the course;~~
 - ~~(2) Name of the provider;~~
 - ~~(3) Name of the licensee who attended the course;~~
 - ~~(4) Number of credit hours earned (actually attended) by the licensee;~~
 - ~~(5) Date(s) the course was attended by the licensee.~~~~
- ~~8. Date, time and place of program; and~~
- ~~9. Verification that proctor is in attendance.~~

~~143-008.02C~~ The provider may submit such additional documents or information as considered relevant to the application and in compliance with the provisions of these regulations.

~~143-008.02D~~ The provider must submit a complete application to the Department at least 45 days prior to the date on which the program is to be given to gain approval before the program is presented.

~~143-008.02E~~ Once a provider is granted approval by the Board for a continuing education program, reapproval will not be required for each subsequent occasion on which the program is administered, so long as the program is not changed or the laws and regulations governing continuing education are not changed. If any portion of the program is changed, reapplication must be made in accordance with ~~172 NAC 143-008.02~~.

~~143-008.02F~~ ~~Post-Program Approval Requested by Provider:~~ Applications for approval of a continuing education program made after the program has occurred must be submitted within 60 days after the date of the program. Those applications for approval submitted less than 60 days before April 1 of each even-numbered year will not be considered for approval for the renewal period.

~~143-008.02G~~ ~~Post-Program Approval Requested by Licensee:~~ A licensee may request Board approval of a continuing education program after the date the program is offered by submitting the information ~~172 NAC 143-008.02~~.

~~143-008.02H~~ After the Board has granted its written approval of the application, the provider is entitled to state upon any publication which advertises or announces the program, the following statement: "This program is approved for ___ hours of continuing education by the Nebraska Board of Podiatry."

~~143-008.02I~~ ~~Denial of Continuing Education Programs:~~

- ~~1.~~ The Department will, upon recommendation of the Board, deny an application for approval of a continuing education program or will suspend or revoke approval of a continuing education program on any of the following grounds:
 - ~~a.~~ Fraud or misrepresentation of information in an application;
 - ~~b.~~ Program content or the presenter's qualifications fail to meet requirements specified in ~~172 NAC 143-008.01C~~ item 2 or ~~143-008.02~~. The Board will not approve continuing education programs related to practice management or promotion of products or services; or
 - ~~c.~~ If the program's objectives do not relate to the theory or clinical application of theory pertaining to the practice of podiatry.

- ~~2.~~ The Board may grant approval or recommend denial of an application for approval of continuing education programs. Should the Board determine to deny an application for a continuing education program, it will send to the applicant by either certified or registered mail to the last address of record in the Department, a notice setting forth the reasons for the determination.
 - ~~a.~~ Denial of an application submitted by a provider will become final 15 days after the mailing of the notice unless the provider, within such 15 day period, will give written notice to the Department of a desire for hearing. The

hearing will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920 and 184 NAC 1, Rules of Practice and Procedure of the Department.

~~143-008.03 Waiver of Continuing Education:~~ The Department, on the recommendation of the Board, may waive the continuing education requirements, in whole or in part, for any two year licensing period when a licensee submits documentation that circumstances beyond his/her control prevented the completion of the requirements.

~~143-008.03A~~ The circumstances include situations in which the licensee:

- ~~1. Holds a Nebraska license but is not practicing podiatry in Nebraska; or~~
- ~~2. Has been in the service of the 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 within 24 months immediately preceding the renewal date.~~

~~143-008.03B Application for Waiver of Continuing Competency:~~ Any licensee who seeks a waiver of continuing competency, 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 requirements in part or in total for any two year period. The licensee must submit:

- ~~1. A verified complete application for waiver of continuing education on a form provided by the Department, or on an alternate format which includes the following information. Only applications which are complete will be considered, and the application must be received by the Department on or before April 1 of the year the license is subject to renewal;
 - ~~a. Name of licensee;~~
 - ~~b. License number;~~
 - ~~c. State and county whether the person signing the affidavit is located;~~
 - ~~d. Number of continuing education hours requested to be waived;~~
 - ~~e. Reason for requesting a waiver; and~~
 - ~~f. Notarized statement from the applicant that the statements on the application are true and complete.~~~~

~~2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing education requirements must include the following:~~

- a. ~~———— If the licensee holds a Nebraska license but is not practicing in Nebraska, s/he must indicate this waiver option.~~
- b. ~~———— If the licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date, s/he must indicate this waiver option and submit official documentation stating the dates of service.~~
- c. ~~———— If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the required number of hours of continuing education during the 24 months immediately preceding the license renewal date, indicate this waiver option and submit a statement from a treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury and of the recovery period, and that the licensee was unable to attend continuing education programs during that period.~~
- d. ~~———— If the licensee was first licensed within the 24 months immediately preceding the license renewal date, indicate this waiver option and list the date the license was issued.~~

~~143-008.03C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing education requirements, upon proof that circumstances beyond the licensee's control prevented completion of such requirements.~~

~~143-008.03C1 When the Department determines to deny an application for waiver of continuing education requirements, it will send to the licensee by certified mail to the last name and address of record in the Department, a notice setting forth the reason for the denial determination.~~

1. ~~———— The licensee has 30 days from the date of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted in accordance with The Administrative Procedures Act and 184 NAC 1, Rules of Practice and Procedure of the Department.~~
2. ~~———— The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.~~

~~143-008.03C2 When the Department determines to grant a waiver of continuing education, the licensee will be notified within 30 days of receipt of the application.~~

~~143-008.04 Audit of Continuing Education: The Board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee will be responsible for maintaining in his/her personal files such certificates or records of credit from continuing education activities received from approved providers. Licensees selected for audit will be required to produce~~

documentation of his/her attendance at 48 hours of approved continuing education to meet the continuing competency requirements. _____

~~143-008.04A~~ The Department will send to each licensee selected for audit a notice of audit.

~~143-008.04B~~ When selected for audit, the licensee must provide satisfactory documentation of attendance at or participation in 48 hours of approved continuing education activities.

~~143-008.04C~~ Failure to comply with the audit may be grounds for non-renewal or revocation of the license.

143-009 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE:

~~143-009.01~~ The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 143-003 or is found to be in violation of any of the provisions of 172 NAC 143-009.03.

~~143-009.02~~ The Department will refuse renewal of a license if the licensee fails to meet the requirements specified in 172 NAC 143-006, 143-008 or 143-009.03.

~~143-009.03~~ 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;~~
- ~~2. _____ Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;~~
- ~~3. _____ Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to 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 a continued course of negligent conduct in performing the duties of the profession;~~
- ~~6. _____ Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;~~
- ~~7. _____ Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;~~
- ~~8. _____ Permitting, aiding, or abetting the practice of a profession or the~~

~~performance of activities requiring a license or certificate by a person not licensed or certified to do so;~~

- ~~9. Action taken by another jurisdiction to deny, refuse renewal, limit, suspend or revoke a license or certificate to practice podiatry, providing such action against the individual was based upon offenses specified in 172 NAC 143-009 in proceedings comparable to those provided for in Neb. Rev. Stat. § 71-155;~~
- ~~10. Unprofessional conduct, which term includes all acts specified in 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 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 podiatry 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 unqualified to practice podiatry; and~~
- ~~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 to 71-161.16 to determine his/her qualifications to practice or to continue in the practice of podiatry.~~

~~143-010 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.~~

~~143-010.01 Eligibility~~

~~143-010.01A 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.~~

~~143-010.01B~~ 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.

~~143-010.01C~~ An individual who practices prior to re-credentialing, is subject to:

- ~~1.~~ Assessment of an Administrative Penalty pursuant to 172 NAC 143-014; 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.

~~143-010.02~~ 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 143-003.

~~143-010.02A~~ 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 143-014;
- ~~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.

~~143-010.02B~~ 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.

~~143-010.02C~~ The Department will act within 150 days on all completed applications.

~~143-010.02D~~ 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 143-010.02A and 143-010.02B are final.

~~143-010.03~~ Requirements to Move a Credential from Inactive Status 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.~~

~~143-010.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:~~

~~1. A written application which contains the following information about the applicant:~~

- ~~_____ a. Name;~~
- ~~_____ b. Address;~~
- ~~_____ c. Social security number; and~~
- ~~_____ d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;~~
- ~~e. List your professional practice activities since your credential was placed on inactive status;~~
- ~~f. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.~~

~~(1) Has any state or territory of the U.S. taken any of the following actions against your credential?~~

~~_____ Denied _____ Suspended _____ Revoked _____ Limited~~

~~(2) Has any licensing or disciplinary authority taken any of the following actions against your credential?~~

~~_____ Limited _____ Suspended _____ Restricted _____ Revoked~~

~~(3) Has any licensing or disciplinary authority placed your credential on probation?~~

~~(4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?~~

~~(5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?~~

~~(6) Have you been requested to appear before any licensing agency?~~

~~(7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?~~

~~(8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?~~

~~(9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?~~

- ~~(10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?~~
- ~~(11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?~~
- ~~(12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?~~
- ~~(13) Have you been convicted of a felony?~~
- ~~(14) Have you been convicted of a misdemeanor?~~
- ~~(15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?~~
- ~~(16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?~~
- ~~(17) Have you surrendered your state or federal controlled substances registration?~~
- ~~(18) Have you had your state or federal controlled substances registration restricted in any way?~~
- ~~(19) Have you been notified of any malpractice claim against you?~~

~~g. 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.~~

~~_____ h. 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.~~

~~_____ 143-010.04A If an applicant has practiced while his/her credential was inactive, the Department may:~~

~~1. Assess an Administrative Penalty pursuant to 172 NAC 143-014;~~

~~2. Initial 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.~~

~~_____ 143-010.04B 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.~~

~~_____ 143-010.04C In either event pursuant to 143-010.04A or 143-010.04B, a notice and the opportunity for hearing will be given to the applicant.~~

~~_____ 143-010.04D The Department will act within 150 days on all completed applications.~~

~~143-010.05 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 the renewal requirements must:~~

~~1. Meet the renewal requirements, including:~~

~~_____ a. Meet 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.~~

~~143-010.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:~~

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

~~_____ a. Name;~~

~~_____ b. Address;~~

~~_____ c. Social security number; and~~

~~_____ d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;~~

~~_____ e. List your professional practice activities since your credential was revoked;~~

~~_____ f. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.~~

~~(1) Has any state or territory of the U.S. taken any of the following actions against your credential?~~

~~_____ Denied Suspended Revoked Limited~~

~~(2) Has any licensing or disciplinary authority taken any of the following actions against your credential?~~

~~_____ Limited Suspended Restricted Revoked~~

~~(3) Has any licensing or disciplinary authority placed your credential on probation?~~

~~(4) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?~~

~~(5) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?~~

~~(6) Have you been requested to appear before any licensing agency?~~

~~(7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?~~

~~(8) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?~~

~~(9) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?~~

~~(10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?~~

~~(11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?~~

- ~~(12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?~~
- ~~(13) Have you been convicted of a felony?~~
- ~~(14) Have you been convicted of a misdemeanor?~~
- ~~(15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?~~
- ~~(16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?~~
- ~~(17) Have you surrendered your state or federal controlled substances registration?~~
- ~~(18) Have you had your state or federal controlled substances registration restricted in any way?~~
- ~~(19) Have you been notified of any malpractice claim against you?~~

~~g. 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;~~

~~h. 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 143-014 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 as provided in 172 NAC 143-010.06B.~~

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

~~143-010.06A The Board's recommendation to the Department may be to:~~

- ~~1. Reinstatement of the credential;~~
- ~~2. Reinstatement of the credential with terms, conditions or restrictions; or~~
- ~~3. Denial of the reinstatement.~~

~~143-010.06B 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 143-014 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 143-014 if warranted; or~~
 - ~~b. Denial of the 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.~~~~

~~143-010.07 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 applicant has practiced in Nebraska since s/he last held an active credential.~~

~~143-010.08 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.~~
- ~~e. Containing the following information about the applicant:~~
 - ~~_____ (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) List your professional practice activities since your license was revoked.~~
 - ~~_____ (6) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.~~

- ~~_____ (a) Has any state or territory of the U.S. taken any of the following actions against your credential?
_____ Denied Suspended Revoked Limited~~
- ~~_____ (b) Has any licensing or disciplinary authority taken any of the following actions against your credential?
_____ Limited Suspended Restricted Revoked~~
- ~~_____ (c) Has any licensing or disciplinary authority placed your credential on probation?~~
- ~~_____ (d) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?~~
- ~~_____ (e) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?~~
- ~~_____ (f) Have you been requested to appear before any licensing agency?~~
- ~~_____ (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?~~
- ~~_____ (h) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?~~
- ~~_____ (i) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?~~
- ~~_____ (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?~~
- ~~_____ (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?~~
- ~~_____ (l) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?~~
- ~~_____ (m) Have you been convicted of a felony?~~
- ~~_____ (n) Have you been convicted of a misdemeanor?~~
- ~~_____ (o) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?~~
- ~~_____ (p) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?~~
- ~~_____ (q) Have you surrendered your state or federal controlled substances registration?~~
- ~~_____ (r) Have you had your state or federal controlled substances registration restricted in any way?~~
- ~~(s) Have you been notified of any malpractice claim against you?~~

~~(7) A statement describing all:~~

- ~~(a) Felony or misdemeanor convictions during the time period~~

~~since the credential was active;~~

~~[1] If the applicant 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 applicant 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 applicant is currently on probation.~~

~~(b) Revocations, suspensions, or other disciplinary actions against any health care professional credential held by the applicant during the time period since the credential was revoked; and~~

~~[1] 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~~

~~(c) Disciplinary charges pending against any professional credential held by the petitioner.~~

~~_____ (8) 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 applicant 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 143-014 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 as provided in 172 NAC 143-010.08F.~~

~~143-010.08A~~ 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.

~~143-010.08B~~ 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.

~~143-010.08C~~ If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

~~143-010.08D~~ Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

~~143-010.08D1~~ 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.

~~143-010.08E~~ 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.

~~143-010.08F~~ 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.

~~143-010.08F1~~ 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.

~~143-010.08F2~~ 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.

~~143-010.08F3~~ 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.

~~143-010.08F4~~ 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.

~~143-010.08F5~~ 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.

~~143-010.09~~ 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.

~~143-010.10~~ Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

~~1.~~ A petition for reinstatement:

- ~~a.~~ Stating the reason the petitioner believes his/her credential should be

reinstated;

- ~~_____ b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.~~
- ~~c. Containing the following information about the petitioner:~~

- ~~_____ (1) Name;~~
- ~~_____ (2) Address;~~
- ~~_____ (3) Social security number; and~~
- ~~_____ (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;~~
- ~~_____ (5) List your professional activities since your credential was suspended, limited or revoked;~~
- ~~_____ (6) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.~~

- ~~_____ (a) Has any state or territory of the U.S. taken any of the following actions against your credential?
_____ Denied _____ Suspended _____ Revoked _____ Limited~~
- ~~_____ (b) Has any licensing or disciplinary authority taken any of the following actions against your credential?
_____ Limited _____ Suspended _____ Restricted _____ Revoked~~
- ~~_____ (c) Has any licensing or disciplinary authority placed your credential on probation?~~
- ~~_____ (d) Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?~~
- ~~_____ (e) Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?~~
- ~~_____ (f) Have you been requested to appear before any licensing agency?~~
- ~~_____ (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?~~
- ~~_____ (h) Are you aware of any pending disciplinary actions against your credential in any jurisdiction?~~
- ~~_____ (i) Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?~~
- ~~_____ (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?~~
- ~~_____ (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?~~
- ~~_____ (l) Have you been diagnosed with or treated for~~

- bipolar disorder, schizophrenia, or any psychotic disorder?
~~_____ (m) Have you been convicted of a felony?~~
~~_____ (n) Have you been convicted of a misdemeanor?~~
~~_____ (o) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?~~
~~_____ (p) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?~~
~~_____ (q) Have you surrendered your state or federal controlled substances registration?~~
~~_____ (r) Have you had your state or federal controlled substances registration restricted in any way?~~
~~_____ (s) Have you been notified of any malpractice claim against you?~~

~~_____ (7) 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;~~

~~(8) 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 143-014 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 as provided in 172 NAC 143-010.10G.~~

~~143-010.10A 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.~~

~~143-010.10B 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.~~

~~143-010.10C 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.~~

~~143-010.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.~~

~~143-010.10E 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.~~

- ~~143-010.10E1~~ 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.
- ~~143-010.10E2~~ 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.
- ~~143-010.10F~~ 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.
- ~~143-010.10G~~ 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.
- ~~143-010.10G1~~ 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.~~

~~143-010.10G2 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.~~

~~143-010.10G3 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.~~

143-010.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time.

~~143-010.11A 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.~~

~~143-010.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:~~

- ~~1. A written application which contains the following information about the applicant:~~
- ~~a. Name;~~
- ~~b. Address;~~
- ~~c. Social security number; and~~
- ~~d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;~~
- ~~e. List your professional practice activities since your credential was voluntarily surrendered or limited;~~
- ~~f. Answer the following questions either yes or no; if~~

~~you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.~~

- ~~(1) — Has any state or territory of the U.S. taken any of the following actions against your credential?
— Denied — Suspended — Revoked — Limited~~
- ~~(2) — Has any licensing or disciplinary authority taken any of the following actions against your credential?
— Limited — Suspended — Restricted — Revoked~~
- ~~(3) — Has any licensing or disciplinary authority placed your credential on probation?~~
- ~~(4) — Have you voluntarily surrendered a credential issued to you by a licensing or disciplinary authority?~~
- ~~(5) — Have you voluntarily limited in any way a credential issued to you by a licensing or disciplinary authority?~~
- ~~(6) — Have you been requested to appear before any licensing agency?~~
- ~~(7) — Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?~~
- ~~(8) — Are you aware of any pending disciplinary actions against your credential in any jurisdiction?~~
- ~~(9) — Are you aware of any on-going investigations of a disciplinary complaint against your credential in any jurisdiction?~~
- ~~(10) — Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?~~
- ~~(11) — Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?~~
- ~~(12) — Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?~~
- ~~(13) — Have you been convicted of a felony?~~
- ~~(14) — Have you been convicted of a misdemeanor?~~
- ~~(15) — Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances~~

registration?

- ~~(16) Have you been called before any licensing agency or lawful authority concerned with DEA-controlled substances?~~
- ~~(17) Have you surrendered your state or federal controlled substances registration?~~
- ~~(18) Have you had your state or federal controlled substances registration restricted in any way?~~
- ~~(19) Have you been notified of any malpractice claim against you?~~

~~g. 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.~~

~~h. Any continuing competency activities;~~

~~i. 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.~~

~~143-010.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:~~

- ~~1. Assess an Administrative Penalty pursuant to 172 NAC 143-014;~~
- ~~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.~~

~~143-010.11A3 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.~~

~~143-010.11A4 In either event pursuant to 172 NAC 143-010.11A2 or 143-010.11A3, a notice and the opportunity for hearing will be given to the applicant.~~

~~143-010.11A5 The Department will act within 150 days on all completed applications.~~

~~143-010.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time.~~

~~143-010.12A 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.~~

~~143-010.12B 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 143-014.~~

~~143-010.13 Credentials Voluntarily Surrendered or Limited Permanently.~~

~~143-010.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.~~

~~143-011 UNPROFESSIONAL CONDUCT: 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 [71-147(10)]:~~

~~143-011.01 Mode of Advertising: In the interest of protecting the public health and~~

~~safety, a podiatrist must not use or participate in the use of any form of public communication or advertising containing a false, fraudulent, misleading, or deceptive statement or claim. Advertising about unlawful activities or advertising testimonials is prohibited. No podiatrist must hold himself/herself, his/her staff, his/her services, or method of delivery of podiatry services as being superior to that of other podiatry practitioners. Any statement used in an advertisement must be subject to measurement or verification.~~

~~143-011.02 Scope of Advertising.~~

~~143-011.02A Name:~~ All advertising used in connection with a place in which podiatry is practiced must contain the name or names of all persons who operate the place of practice. Person can be an individual, partnership or corporation. The names of all podiatrists practicing in a podiatry office must be posted prominently at the entrance to the podiatry office. In the case of a professional corporation, all advertising about the podiatry office must contain the name of the professional corporation and the names of all podiatrists who are shareholders in the corporation who practice podiatry in the podiatry office. In all cases the use of a podiatrist's name will mean the use of the full name of the podiatrist as it appears on his/her license and on his/her license renewal certificate.

~~143-011.02B Fee Information:~~ Any offer in an advertisement by a podiatrist containing reference to a specific fee or price or a specific schedule of fees or prices must state the period of time during which the offer at such specified fee or price remains open for acceptance. If the advertisement does not state the period of time during which the offer at such specified fee or price remains open for acceptance, then the offer must be open for acceptance for a reasonable period of time which must not be less than 20 calendar days.

~~143-011.02C Referral of Patient:~~ Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services is prohibited.

~~143-011.02D Media:~~ A podiatrist must not compensate or give any thing of value to representatives of the press, radio, television, or other communication media in anticipation of and in return for professional publicity unless the fact of compensation is made known in such publicity; this provision does not apply to professional advertising on those media paid for by the podiatrist.

~~143-011.03 Routine Podiatry Services:~~ A "routine podiatry service" is a podiatry service which can be performed at a set price or which can be performed within a stated period of time. A podiatrist who advertises a routine podiatry service at a set price must perform such service at the stated set price. A podiatrist who advertises a routine podiatry service to be performed within a stated period of time must perform such service within that period of time. A set price for routine podiatry services is a fixed amount (the price advertised), for which the podiatrist providing the advertising will perform all necessary component services in order to complete the routine podiatry service with competence and within the standard of expertise pertaining in the podiatry profession.

~~143-011.04 Specialty Podiatry Practices:~~ A podiatrist cannot advertise a specialty in which s/he does not have competence. Whenever a podiatrist advertises a specialty for which s/he does not have current certification from or eligibility for current certification from, a specialty board recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association appropriate to that area of podiatry practice, the podiatrist must disclose that fact in the advertisement.

~~143-011.05 Noncompliance:~~ Noncompliance by a licensed podiatrist with any part of 172 NAC 143-011 or the use of a false, fraudulent, misleading, or deceptive statement or claim in an advertisement by a licensed podiatrist will be considered unprofessional conduct and will subject the licensee to suspension or revocation of his/her license to practice podiatry, or to other disciplinary action against the license of the podiatrist.

143-012 REQUIREMENTS FOR PERFORMING ANKLE SURGERY

~~143-012.01~~ A podiatrist may perform surgery on the ankle only at a licensed hospital or ambulatory surgical center. The following requirements must also be met:

- a. ~~————~~ A podiatrist initially licensed in this state prior to September 1, 2001 must have successfully completed an advanced postdoctoral surgical residency program of at least one year's duration which is recognized as suitable for that purpose by the Board.
- b. ~~————~~ A podiatrist initially licensed in this state on or after September 1, 2001 must have successfully completed an advanced postdoctoral surgical residency program of at least two years' duration which is recognized as suitable for that purpose by the Board.

143-013 SCHEDULE OF FEES: The following fees have been set by the Department:

~~143-013.01 Initial License Fee:~~ By an applicant for a license to practice podiatry, the fee of \$325 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

~~143-013.02 Proration of Initial License Fee:~~ For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$81.25 and the Licensee Assistance Program fee of \$1.

~~143-013.03 License Renewal Fee:~~ By an applicant for a renewal on a biennial basis of a license to practice podiatry, the fee of \$225 and the Licensee Assistance Program fee of \$2.

~~143-013.04 Inactive License Status Fee:~~ By an applicant to have his/her license placed on inactive status, the fee of \$25.

~~143-013.05 Renewal Late Fee:~~ By an applicant for renewal on a biennial basis of a license, who fails to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.

~~143-013.06 Certification of License Fee:~~ For issuance of a certification of a license, the

~~fee of \$25. The certification includes information regarding:~~

- ~~1. The basis on which a license was issued;~~
- ~~2. The date of issuance;~~
- ~~3. Whether disciplinary action has been taken against the license; and~~
- ~~4. The current status of the license.~~

~~143-013.07 Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.~~

~~143-013.08 Duplicate License Fee: For a duplicate original license document or reissued license, the fee of \$10.~~

~~143-013.09 Administrative Fee: For a denied license or a withdrawn application, an administrative fee of \$25 will be retained by the Department, except if the fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.~~

~~143-013.10 Reinstatement Late Fee: For reinstatement of a license for failure to meet renewal requirements:~~

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

~~143-013.11 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.~~

~~143-014 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.~~

~~143-014.01 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;~~
- ~~6. Other government records indicate that the person was engaged in practice; and~~
- ~~7. 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.~~

~~143-014.02 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 will specify:
 - ~~a. The total amount of the administrative penalty;~~
 - ~~b. The evidence on which the administrative penalty is based;~~
 - ~~c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;~~
 - ~~d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and~~
 - ~~e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.~~~~
- ~~2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.~~

~~143-014.03 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 Attorney General: _____ December 3, 2004
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REGULATION AND LICENSURE

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