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NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 5 MANDATORY REPORTING BY HEALTH CARE PROFESSIONALS, FACILITIES,  
PEER REVIEW ORGANIZATIONS, PROFESSIONAL ASSOCIATIONS, AND  
INSURERS

001. SCOPE AND AUTHORITY. These regulations govern the manner and method in which health care professionals, health care facilities, peer review organizations, professional associations and insurers must report actions or conduct which may violate laws or regulations governing health care professionals who are licensed, certified, or registered by the Department. The authority for this chapter is the Uniform Credentialing Act, Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 38-101 to 38-1,142 and the Wholesale Drug Distributor Licensing Act, Neb. Rev. Stat. §§ 71-7427 to 71-7463. This chapter does not apply to pharmacist interns and pharmacy technicians.

001.01 VOLUNTARY COMPLAINTS. Nothing in law or under this chapter is intended to preclude a health care professional, a health care facility, a peer review organization, a professional association, or an insurer from voluntarily reporting information or filing a complaint against a health care professional.

002. DEFINITIONS. Definitions set out in the Uniform Credentialing Act, the Wholesale Drug Distributor Licensing Act, 172 Nebraska Administrative Code (NAC) 10, and the following apply to this chapter.

002.01 CONVICTION. A finding of guilt for a crime committed. Such finding may be made on a:

- (A) Verdict of a jury;
- (B) Non-jury trial before a court or other tribunal; or
- (C) Upon acceptance of a plea of guilty or no contest without trial.

002.02 EMPLOYMENT. Services performed for another for wages or salary, or under agreement or contract in partnership or association with other health care professionals.

002.03 FIRSTHAND KNOWLEDGE. Information or knowledge gleaned directly from the original source through use of the senses, such as an eyewitness.

002.04 GROSS INCOMPETENCE. An extreme deficiency on the part of an individual that connotes a lack of the basic knowledge and skill necessary to practice at the threshold level of competence.

002.05 HEALTH CARE PROFESSIONAL. A person regulated by the Department under the Uniform Credentialing Act or the Wholesale Drug Distributor Act.

002.06 PATTERN OF INCOMPETENT OR NEGLIGENT CONDUCT. Pattern of incompetent or negligent conduct has the meaning set out in Neb. Rev. Stat. § 38-177.

002.07 PAYMENT. Monetary compensation made by or on behalf of a health care professional due to acts or omissions of a health care professional in his or her personal or corporate capacity.

002.08 PEER REVIEW ORGANIZATION OR COMMITTEE. A professional society or committee or agency, including those at the national, state or local level, or a facility's peer review or utilization review committee or similar body, that engages in professional credentialing or quality review activities involving the competence of, professional conduct of, or quality of care provided by a health care professional through a formal peer review process to further quality of care or conducts any attendant hearing process initiated as a result of a peer review committee's recommendations or actions.

002.09 PERSON IN THE SAME PROFESSION. For purpose of this chapter, person in the same profession is a person who is regulated by the same Practice Act.

002.10 PERSON IN A DIFFERENT PROFESSION. For purpose of this chapter, person in a different profession is a person who is regulated by a different Practice Act.

002.11 PRACTICING WHILE IMPAIRED. Practicing while impaired with respect to the following includes:

- (A) Alcohol, controlled substances or narcotic drugs means demonstrating drug or alcohol use, which diminishes or otherwise impacts the ability to practice safely or competently;
- (B) A physical disability means engaging in practice of some or all of the essential functions or duties of a health care profession while the ability to do so safely or competently is diminished or otherwise impacted because of physical limitations; and
- (C) A mental or emotional disability means engaging in practice of some or all of the essential functions or duties of a health care profession while the ability to do so safely or competently is diminished or otherwise impacted due to a disorder of thought, mood, perception, orientation or memory.

002.12 PRIVILEGES. The authorization by a facility for a health care professional to provide health care services, including privileges and membership on the medical staff of the facility.

002.13 PROFESSIONAL ASSOCIATION, SOCIETY OR ORGANIZATION. Any organization of individual health care professionals who are required to obtain a credential or other legal authorization prior to performing a professional service.

002.14 PROFESSIONAL LIABILITY CLAIM OR CLAIM. A complaint or demand for payment based on a health care professional's provision of or failure to provide health care services, and includes complaints or demands made prior to suit and the filing of a cause of action

based on the law of tort brought in any state or federal court or any adjudicative body or agency in the health care professional's personal or corporate capacity.

**002.15 SETTLEMENT.** A settlement, as referred to in Neb. Rev. Stat. § 38-1,125, includes the provision of either money, devices, products or services by a health care professional to a patient or client in an amount that exceeds the total fee charged to a patient or a client to resolve a claim, including settlements made prior to the suit if the patient or client releases any professional liability claim against you. The date of the settlement for the purpose of this chapter is the date of release from the claim. A settlement does not include the following situations:

- (A) When a health care professional waives either all or part of an outstanding debt to resolve a patient's or client's claim;
- (B) When a health care professional refunds either all or part of a fee paid for services, products, or devices to resolve a patient's or client's claim; or
- (C) When a health care professional returns either all or part of any reimbursement to a third party payers for services, products, or devices provided to a patient or client to resolve a claim.

**003. REPORTING BY HEALTH CARE PROFESSIONALS.** All health care professionals must report as required by Neb. Rev. Stat. §§ 38-1,124 to 38-1,126 and this chapter. Reports must be made on a form provided by the Department and contain all the requested information.

**003.01 PROFESSIONAL LIABILITY.** A health care professional must report the following:

- (A) Your professional liability insurance coverage has been cancelled, limited, or otherwise modified due to a professional liability claim; and
- (B) You have been refused professional liability insurance coverage on an initial or renewal basis due to a professional liability claim.

**003.02 EXCEPTION FROM REPORTING CONVICTIONS.** As an exception from the conviction reporting requirements, any health care professional whose case disposition involves diversion is not required to report the diversion.

**003.03 EXCEPTION FROM REPORTING PERSONS IN THE SAME OR A DIFFERENT PROFESSION.** A health care professional who is providing treatment to another health care professional in a practitioner patient relationship is not required to report information based on confidential medical records protected by confidentiality provisions of the federal Public Health Services Act, 42 U.S.C. 290ee-3 and 290dd-3 and federal administrative rules and regulations, except as may be provided in such laws or regulations.

**004. REPORTING BY HEALTH CARE FACILITIES, PEER REVIEW ORGANIZATIONS, AND PROFESSIONAL ASSOCIATIONS.** All health care facilities, peer review organizations, and professional associations must report as required by Neb. Rev. Stat. §§ 38-1,127 to 38-1,128 and this chapter. Reports must be made on a form provided by the Department and contain all the requested information.

**004.01 NEBRASKA SUPPLEMENTAL REPORT.** In addition to National Practitioner Data Bank reports, facilities, peer review organizations, and professional associations must report to the Department information that is not included on the National Practitioner Data Bank

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reports by using a Nebraska Supplemental Report form provided by the Department that contains all the requested information.

005. REPORTING BY INSURERS. All insurers must report as required by Neb. Rev. Stat. §§ 38-1,129 to 38-1,135 and this chapter. Reports must be made on a form provided by the Department and contain all the requested information.

005.01 NATIONAL PRACTITIONER DATA BANK. Insurers who report practitioners under the requirements of the National Practitioner Data Bank authorized by the Health Care Quality Improvement Act of 1986, as amended, must submit to the Department:

- (A) A copy of the National Practitioner Data Bank report; and
- (B) A Nebraska Supplemental Report on a form provided by the Department that contains all the requested information.