

EFFECTIVE
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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 96

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 96 MEDICATION AIDE REGISTRY

001. SCOPE AND AUTHORITY. These regulations apply to the establishment and maintenance of the Medication Aide Registry pursuant to the Medication Aide Act, Nebraska Revised Statute (Neb. Rev. Stat.) §§ 71-6718 to 71-6742.

002. DEFINITIONS. Definitions are found in Neb. Rev. Stat. § 71-6721 and this chapter.

002.01 ACTIVE STATUS. The individual has met all requirements for registration, reapplication or renewal and is eligible to administer medications in accordance with the Medication Aide Act.

002.02 ENTITY. As defined by 172 NAC 95.

002.03 MEDICATION AIDE-40 HOUR. A medication aide who has completed a 40-hour course and passed an examination identified in this chapter.

002.04 MEDICATION AIDE-20 HOUR. A medication aide who has, prior to January 1, 2003, completed a 20-hour course and passed an examination identified in this chapter.

002.05 MEDICATION STAFF. As defined by 172 NAC 95.

003. REQUIREMENTS FOR PLACEMENT ON THE MEDICATION AIDE REGISTRY. To qualify for placement on the Registry, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat § 71-6726 and this chapter.

- (A) Competency in accordance with 172 Nebraska Administrative Code (NAC) 96-004 during the 6 months preceding the period for which the requested registration will become effective; and
- (B) Must submit to the Department:
 - (i) Name, address, birth date, social security number;
 - (ii) Identification of any felony or misdemeanor conviction along with date of occurrence and county and state in which the conviction occurred;
 - (iii) Copies of all charges, amended charges, pleas, sentencing and probation orders for convictions;
 - (iv) An explanation of the events leading to the conviction, such as what, when, where, and why, and a summary of actions that the applicant has taken to address the behaviors or actions related to the conviction;

- (v) A letter from the applicant's probation officer addressing the terms and current status of the probation, if the applicant is currently on probation;
- (vi) To aid in the evaluation of an applicant's drug or alcohol related convictions, an applicant may submit evaluations and discharge summaries where drug or alcohol treatment was obtained or required. Evaluations and discharge summaries must be submitted by the provider directly to the Department;
- (vii) All records, documents or information requested by the Department;
- (viii) An official record documenting demonstration of competency as specified in 172 NAC 95; and
- (ix) The required non-refundable fee as specified in 172 NAC 96-010.

003.01 INITIAL REGISTRATION FOR MEDICATION AIDE WAITING FOR PLACEMENT ON THE REGISTRY. An individual who has met all of the criteria for initial registration as identified in Neb. Rev. Stat. § 71-6726 and this chapter may provide medications in accordance with Neb. Rev. Stat. § 71-6726 and this chapter for a period not to exceed 30 days pending placement on the Registry.

004. COMPETENCY ASSESSMENT FOR PLACEMENT ON THE REGISTRY. The requirements for demonstration of competence and the required documentation are:

- (A) Medication aides providing services in all settings except an assisted-living facility, intermediate care facility for individuals with intellectual disabilities (ICF/IID), or nursing home must successfully pass a competency assessment as identified in 172 NAC 96-005;
- (B) Medication aides providing services in an assisted-living facility, intermediate care facility for individuals with intellectual disabilities (ICF/IID), or nursing home must:
 - (i) Successfully complete a competency assessment as identified in 172 NAC 96-005; and
 - (ii) Successfully complete a 40-hour course. The 40-hour course must be on the competency standards identified in 172 NAC 96-005.01. The 40-hour course may include the competency assessment identified in 172 NAC 96-005;
 - (1) A medication aide who has, prior to January 1, 2003, taken a 20-hour course and passed an examination administered by the Department, may complete an additional 20-hour course to meet the required 40-hour course;
 - (2) These course requirements may be met by a person enrolled in an approved program of nursing or other allied health program after the content required for the competencies identified in 172 NAC 96-005.01 have successfully been completed; and
 - (3) These course requirements may be met by a person who has taken a medication course in another state if the course consisted of the required 40 clock hours; and
 - (iii) Successfully pass the Department designated examination for Medication Aide-40 hour. The examination passing standard will be the criterion referenced using the Anghoff Method or equivalent method;
- (C) Documentation of successful completion of competency assessment must be by copy of letter, certificate, or other official record from the professional who provided or directed the competency assessment;
- (D) Documentation of successful course completion must be by copy of letter, certificate, or other official record from the professional or entity offering the 40-hour course, or the

- additional 20-hour course for those individuals who, prior to January 1, 2003, had completed a 20-hour course and the state written exam;
- (E) Documentation of successful course completion by a student enrolled in an approved program of nursing may be met by a signed statement from a faculty member of the program who is also a licensed health care professional. The written statement must identify the name and Social Security Number of the student and a statement that the student has completed the course work covering the competencies identified in 172 NAC 96-005.01. For the purposes of the Medication Act and 172 NAC 96, this will meet the requirement of the 40-hour course; and
 - (F) Documentation of successful course completion by a person in another state who has completed a medication course may be met by submitting a copy of the certificate of completion or other official documentation from the course. The documentation must include the name of the individual who has completed the course, the date of course completion, and the number of hours contained in the course.

005. REQUIREMENTS FOR INDIVIDUALS AND ENTITIES OFFERING COMPETENCY ASSESSMENTS OR COURSES. Standards that are required to be met to show competency include the following in this section.

005.01 COMPETENCY ASSESSMENTS DEMONSTRATIONS. Competency assessments must include a demonstration of each of the following competency areas and standards:

- (A) Maintaining confidentiality, which includes not sharing confidential information except when it affects the recipient's care and is only shared with the appropriate person;
- (B) Complying with a recipient's right to refuse to take medication, including the use of appropriate measures to encourage taking of medications when directed for recipients who are not competent;
- (C) Maintaining hygiene and current accepted standards for infection control, utilizing appropriate infection control principles when providing medications;
- (D) Documenting accurately and completely the standard is to accurately document all medication provided including the name of the medication, dose, route, and time administered and any refusal of medication, and spoilage;
- (E) Providing medications according to the 5 rights as outlined at Neb. Rev. Stat. § 71-6721(9); the standard is to provide the right medication, to the right person, at the right time, in the right dose, and by the right route;
- (F) The ability to understand and follow instructions and to comprehend written or oral directions;
- (G) Practicing safety in application of medication procedures which includes the ability to:
 - (i) Safely store and handle all medications in accordance with entity policy;
 - (ii) Intervene when unsafe conditions of the medication indicate a medication should not be provided; and
 - (iii) Provide medication to recipients in accordance with their age and condition;
- (H) Complying with limitations and conditions under which a medication aide or medication staff may provide medications, which includes the standard is knowing that the medication aide or medication staff must:
 - (i) Be competent, have been assessed, and if applicable, be listed on the Medication Aide Registry with an active status;
 - (ii) Always comply with the 5 rights of provision of medications;
 - (iii) Record all medication provided or refused; and

- (iv) Have additional competencies to provide additional activities;
- (I) Having knowledge of abuse and neglect reporting requirements, the standard is to identify:
 - (i) Occurrences of possible abuse of a vulnerable adult and reports this information to the appropriate person or agency as required by the Adult Protective Services Act; and
 - (ii) Occurrences of possible abuse or neglect of a child and reports this information to the appropriate person or agency as required by Child Protection and Family Safety Act; and
- (J) Complying with every recipient's right to be free from physical and verbal abuse, neglect, and misappropriation or misuse of property; the standard is to not misuse recipient's property or cause physical harm, pain, or mental anguish to recipients.

005.02 CONDUCTING COMPETENCY ASSESSMENTS. Competency assessments must be conducted by a licensed health care professional or a registered medication aide.

005.02(A) CONDUCTED BY A MEDICATION AIDE. If the competency assessment is conducted by a medication aide, the competency assessment must be designed, directed, and reviewed by a licensed health care professional.

005.02(B) CONDUCTED BY A LICENSED HEALTH CARE PROFESSIONAL. A licensed health care professional who has designed and is directing the competency assessment must review the competency assessment process no less than 1 time per year. The review must include, but is not limited to, a measurement of the desired outcomes of the competency assessment. The licensed health care professional must maintain a record of the review for no less than 3 years from the date the review was conducted.

005.03 COMPETENCY ASSESSMENT DOCUMENTATION. Persons offering competency assessments must provide the medication aide with documentation of successful completion of competency assessment. Documentation may be by letter, certificate, or other official record and must include:

- (A) The name and social security number of the medication aide who successfully completed the competency assessment;
- (B) The date the competency assessment was conducted; and
- (C) The name, profession, and license number of the licensed health care professional who conducted or designed and directed the competency assessment.

005.04 40-HOUR COURSE REQUIREMENTS. The 40-hour course for an assisted-living facility, intermediate care facility for individuals with intellectual disabilities (ICF/IID), and nursing homes must be on the competencies identified in 172 NAC 96-005.01.

005.04(A) ASSESSMENT. The assessment must meet the requirements of 172 NAC 96-005.01.

005.04(B) DOCUMENTATION OF COURSE COMPLETION. Individuals or entities offering a 40- hour course or the additional 20-hour course for those individuals who, prior to January 1, 2003, had completed a 20-hour course and passed an examination administered by the Department, must provide the medication aide with documentation of

successful course completion. Documentation must include:

- (i) The name and social security number of the individual who successfully completed the course;
- (ii) The number of hours in the course and whether the course was the 40-hour assisted-living, intermediate care facility for individuals with intellectual disabilities (ICF/IID), or nursing home course, or the additional 20-hour course;
- (iii) The date the course was successfully completed;
- (iv) The name of the person or entity responsible for providing the course and determining successful completion; and
- (v) The criteria set forth in 172 NAC 96-005.03.

006. REVIEW OF ENTITIES CONDUCTING COMPETENCY ASSESSMENTS OR COURSES AND REVIEW OF MEDICATION AIDE ACTIVITIES. In order to ensure compliance with the Medication Aide Act and 172 NAC 96, the Department may:

- (A) Conduct a review of any entity or person conducting competency assessments or a course;
- (B) Review the activities of any applicant or medication aide; and
- (C) Conduct periodic and random reviews without prior notification.

006.01 CONDITIONS FOR REVIEW. Conditions or environmental situations which may trigger a review include, but are not limited to:

- (A) Receipt of a complaint against a facility or a medication aide;
- (B) High failure rate on the examination for medication aides in an assisted-living facility, intermediate care facility for individuals with intellectual disabilities (ICF/IID), or nursing home;
- (C) A negative medication outcome by a recipient receiving medication from a medication aide;
- (D) When there is cause for concern that a facility is not complying with the Act and 172 NAC 96;
- (E) High rate of medication errors reported or found in a facility; and
- (F) Information obtained through the facility survey process.

007. REGISTRATION RENEWAL OR REAPPLICATION. Registration as a medication aide shall be renewed biennially based on competency.

007.01 EXPIRATION OF REGISTRATION. All medication aide registrations expire 2 years after the date of registration. If an applicant meets the renewal requirements before the expiration date, their registration will be renewed. If an applicant fails to renew their registration by the expiration date, their registration will expire. An applicant whose registration has expired may reapply for registration.

007.02 REQUIREMENTS FOR REGISTRATION RENEWAL OR REAPPLICATION. Before an applicant's registration will be renewed or in order to reapply for registration, an applicant must meet the following requirements:

- (A) For renewal or reapplication, and applicant must:
 - (i) Have completed a competency assessment in accordance with 172 NAC 96-005 during the six months preceding the period for which the requested registration will become effective; and

- (ii) Pay the non-refundable renewal or reapplication fee; and
- (B) For reapplication only, the applicant must:
 - (i) Attest to the following:
 - (1) That the applicant has not provided services in Nebraska since they last held an active registration; or
 - (2) To the actual number of days the applicant provided services if the medication aide provided services in Nebraska since they last held an active registration.

007.03 PROCEDURES FOR RENEWAL OR REAPPLICATION. It is the responsibility of the applicant to renew or reapply to be active on the registry by following these procedures:

- (A) Prior to the renewal period the applicant must notify the Department of any name or address changes;
- (B) Any applicant who wishes to renew their registration or to reapply for registration must submit to the Department:
 - (i) The renewal notice or written application which:
 - (1) Is verified by the applicant's oath; and
 - (2) Contains the following:
 - (a) Name;
 - (b) Address; and
 - (c) Social Security Number;
 - (ii) Any revocations, suspensions, or other disciplinary actions against any health care professional credential held by the applicant during the time period since the credential was active;
 - (iii) Any disciplinary charges pending against any health care professional credential held by the applicant;
 - (iv) Copies of all charges, amended charges, pleas, sentencing and probation orders for convictions;
 - (v) A statement describing all felony or misdemeanor convictions during the time period since the registration was active;
 - (vi) A letter from the applicant's probation officer addressing the terms and current status of the probation, if the applicant is currently on probation;
 - (vii) To aid in the evaluation of an applicant's drug or alcohol related convictions, an applicant may submit evaluations and discharge summaries where drug or alcohol treatment was obtained or required. Evaluations and discharge summaries must be submitted by the provider directly to the Department;
 - (viii) All records, documents or information requested by the Department;
 - (ix) An official record documenting documentation of competency as specified in 172 NAC 96-004;
 - (x) The non-refundable renewal or reapplication fee and any other applicable fees and;
- (C) For reapplication only, the applicant must provide the following:
 - (i) A written attestation which states:
 - (1) That the applicant has not provided services in Nebraska since they last held an active registration; or
 - (2) To the actual number of days the applicant provided services if the applicant provided services in Nebraska since they last held an active registration.

007.04 REFUSAL TO RENEW REGISTRATION. The Department may refuse to renew a

registration or deny reapplication for a registration for failure to meet the requirements specified in 172 NAC 96-007 or for falsification of any information submitted for renewal or reapplication of registration. Such refusal will be made pursuant to an informal conference as set forth in Neb. Rev. Stat. § 71-6731 or hearing in accordance with the Department's Rules of Practice and Procedure.

008. GROUND AND PROCEDURES FOR DENIAL, REFUSAL OF RENEWAL OR REAPPLICATION, OR REMOVAL FROM THE REGISTRY. The Department may deny, refuse to renew or remove a medication aide from the registry if the medication aide does not meet the requirements set out in the Medication Aide Act and this chapter.

008.01 DENIAL OF APPLICATION. The Department will deny an application for placement on the registry as a medication aide when the applicant fails to meet the requirements specified in 172 NAC 96-003.

008.02 REFUSE RENEWAL OR REAPPLICATION. The Department will refuse renewal or reapplication for registration or remove registration if the medication aide fails to meet the requirements specified in 172 NAC 96-003.

008.03 REASON TO DENY, REFUSE RENEWAL OR REAPPLICATION OR REMOVE REGISTRATION. The Department may deny, refuse renewal or reapplication or remove registration for the following reasons:

- (A) Failure to demonstrate competency as identified in 172 NAC 96-005;
- (B) Failure to produce evidence of competency assessment performed or directed by a licensed health care provider;
- (C) Conviction of a felony or misdemeanor if it relates to the competency standards in 172 NAC 96-005.01 or reflects on the moral character of the applicant or medication aide;
- (D) Failure to comply with appropriate verbal and written direction given by a recipient with capability and capacity to make informed decision about medications, caretaker or licensed health care professional in the provision of medication;
- (E) Falsification or failure to report any information on application for registration or renewal; and
- (F) Providing medication aide services without an active medication aide registration.

008.04 INFORMAL CONFERENCE. If the Department denies, refuses renewal or reapplication of, or removes registration other than for non-payment of the renewal or reapplication fee, the applicant or registrant will be notified and given an opportunity for an informal conference as set forth in Neb. Rev. Stat. § 71-6731 and a hearing in accordance with the Department's Rules of Practice and Procedure.

008.05 REAPPLICATION IF DENIED, REFUSED RENEWAL OR REAPPLICATION OR REMOVED FROM REGISTRY. When a registration as a medication aide has been denied, refused renewal or reapplication, or removed from the Registry, an applicant requesting registration must reapply for such registration as identified in 172 NAC 96-003, but may not reapply until one year has elapsed since the denial or refusal was effective.

009. REQUIREMENT TO REPORT. Entities shall report to the Department any adverse action

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taken against a medication aide. Adverse action includes termination of employment, suspension, demotion, or any other type of restriction or action adversely affecting a medication aide. The report must include:

- (A) The name, address, and social security number of the medication aide;
- (B) The date of the alleged incidents or incidents and date of adverse action;
- (C) The name of the individual, if applicable, who was the recipient or intended recipient of the medications or medications during the acts or acts of the alleged incompetence;
- (D) A description of the alleged acts or acts of incompetence and any supporting documents or records; and
- (E) Any other related facts known to the Entity making the report.

010. INITIAL REGISTRATION, RENEWAL OR REAPPLICATION FEE. An applicant for initial registration, renewal, or reapplication to provide services as a medication aide must pay a fee of \$18. This fee is non-refundable.