

**2004**

**STATE OF NEBRASKA**

**STATUTES RELATING TO  
OCCUPATIONAL THERAPY**

**NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM**



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## STATUTES PERTAINING TO OCCUPATIONAL THERAPY

**71-6101. Act, how cited.** Sections 71-6101 to 71-6123 shall be known and may be cited as the Occupational Therapy Practice Act.

Source: Laws 1984, LB 761, § 29; Laws 2003, LB 242, § 138; Laws 2004, LB 1005, § 120. Operative date July 16, 2004.

**71-6102. Purpose of act.** In order to (1) safeguard the public health, safety, and welfare, (2) protect the public from being misled by incompetent, unscrupulous, and unauthorized persons, (3) assure the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants, and (4) assure the availability of occupational therapy services of high quality to persons in need of such services, it is the purpose of the Occupational Therapy Practice Act to provide for the regulation of occupational therapists.

Source: Laws 1984, LB 761, §30. Effective date July 10, 1984.

**71-6103. Terms, defined.** For purposes of the Occupational Therapy Practice Act, unless the context otherwise requires:

(1) Active license means the license of a person who is acting, practicing, functioning, and working in compliance with the requirements of a license;

(2) Association means a recognized national or state association for occupational therapy;

(3) Board means the Board of Occupational Therapy Practice established by section 71-6115;

(4) Credentialing means the process of obtaining state approval to provide health care services or human services or to change aspects of a current approval and includes, but is not limited to, granting permission to use a protected title that signifies that a person is qualified to provide the services within the scope of practice of a profession;

(5) Deep thermal agent modalities means therapeutic ultrasound and phonophoresis. Deep thermal agent modalities does not include the use of diathermy or lasers;

(6) Department means the Department of Health and Human Services Regulation and Licensure;

(7) Electrotherapeutic agent modalities means neuromuscular electrical stimulation, transcutaneous electrical nerve stimulation, and iontophoresis. Electrotherapeutic agent modalities does not include the use of ultraviolet light;

(8) Mechanical devices means intermittent compression devices. Mechanical devices does not include devices to perform spinal traction;

(9) Occupational therapist means a person holding an active license to practice occupational therapy;

(10)(a) Occupational therapy means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independent function, prevent further disability, and achieve and maintain health and productivity.

(b) Occupational therapy encompasses evaluation, treatment, and consultation and may include (i) remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes, (ii) adaptation of task, process, or the environment, or the teaching of compensatory techniques, in order to enhance performance, (iii) disability prevention methods and techniques which facilitate the development or safe application of performance skills, and (iv) health promotion strategies and practices which enhance performance abilities;

(11) Occupational therapy aide means a person who is not licensed by the board and who provides supportive services to occupational therapists and occupational therapy assistants;

(12) Occupational therapy assistant means a person holding an active license to assist in the practice of occupational therapy;

(13) Physical agent modalities means modalities that produce a biophysiological response through the use of water, temperature, sound, electricity, or mechanical devices; and

(14) Superficial thermal agent modalities means hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling technologies.

Source: Laws 1984, LB 761, § 31; Laws 1993, LB 121, § 451; Laws 1996, LB 1044, § 757; Laws 2001, LB 346, § 1; Laws 2002, LB 1021, § 95; Laws 2004, LB 1005, § 121. Operative date July 16, 2004.

**71-6104. Occupational therapist; therapy assistant; licensure required; activities and services not prohibited.** No person may represent himself or herself to be a licensed occupational therapist or occupational therapy assistant unless he or she is licensed in accordance with the Occupational Therapy Practice Act. Nothing in such act shall be construed to prevent:

(1) Any person licensed in this state pursuant to Chapter 71 from engaging in the profession or occupation for which he or she is licensed;

(2) The activities and services of any person employed as an occupational therapist or occupational therapy assistant by the armed forces, the United States Department of Veterans Affairs, or the United States Public Health Service if such person provides occupational therapy solely under the direction or control of the organization by which he or she is employed;

(3) The activities and services of any person pursuing an accredited course of study leading to a degree or certificate in occupational therapy if such activities and services constitute a part of a supervised course of study and if such a person is

designated by a title which clearly indicates his or her status as a student or trainee;

(4) The activities and services of any person fulfilling the supervised fieldwork experience requirements of sections 71-6106 and 71-6107 if such activities and services constitute a part of the experience necessary to meet the requirements of such sections; or

(5) Qualified members of other professions or occupations, including, but not limited to, recreation specialists or therapists, special education teachers, independent living specialists, work adjustment trainers, caseworkers, and persons pursuing courses of study leading to a degree or certification in such fields, from doing work similar to occupational therapy which is consistent with their training if they do not represent themselves by any title or description to be occupational therapists.

Source: Laws 1984, LB 761, § 32; Laws 1991, LB 2, § 14; Laws 2004, LB 1005, § 122. Operative date July 16, 2004.

**71-6105. Occupational therapist, therapy assistant; temporary permit.** Any person who has applied to take the examination under section 71-6106 or 71-6107 and who has completed the education and experience requirements of the Occupational Therapy Practice Act may be granted a temporary permit to practice as an occupational therapist or an occupational therapy assistant. A temporary permit shall allow the person to practice only in association with a licensed occupational therapist and shall be valid until the date on which the results of the next licensure examination are available to the department. The temporary permit shall not be renewed if the applicant has failed the examination. The permit may be extended at the discretion of the board with the approval of the department. In no case may a temporary permit be extended beyond one year.

Source: Laws 1984, LB 761, § 33; Laws 1988, LB 1100, § 175. Operative date April 8, 1988.

**71-6106. Occupational therapist; license; application; requirements; term.** (1) An applicant applying for a license as an occupational therapist shall file a written application, which shall include the applicant's social security number, in the manner and on forms provided by the department, showing to the satisfaction of the department that he or she:

(a) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association;

(b) Has successfully completed a period of supervised fieldwork experience at an educational institution approved by the department and where the applicant's academic work was completed or which is part of a training program approved by such educational institution. A minimum of six months of supervised fieldwork experience shall be required for an occupational therapist; and

(c) Has passed an examination as provided in section 71-6108.

(2) Residency in this state shall not be a requirement of licensure. A corporation, partnership, limited liability company, or association shall not be licensed as an occupational therapist pursuant to the Occupational Therapy Practice Act.

Source: Laws 1984, LB 761, § 34; Laws 1989, LB 344, § 33; Laws 1993, LB 121, § 452; Laws 1997, LB 752, § 194; Laws 2003, LB 242, § 139. Operative date July 1, 2004.

**71-6107. Occupational therapy assistant; license; application; requirements; term.** (1) An applicant applying for a license as an occupational therapy assistant shall file a written application in the manner and on forms provided by the department, showing to the satisfaction of the department that he or she:

(a) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association;

(b) Has successfully completed a period of supervised fieldwork experience at an educational institution approved by the department and where the applicant's academic work was completed or which is part of a training program approved by such educational institution. A minimum of two months of supervised fieldwork experience shall be required for an occupational therapy assistant; and

(c) Has passed an examination as provided in section 71-6108.

(2) Residency in this state shall not be a requirement of licensure as an occupational therapy assistant. A corporation, partnership, limited liability company, or association shall not be licensed pursuant to the Occupational Therapy Practice Act.

Source: Laws 1984, LB 761, § 35; Laws 1989, LB 344, § 34; Laws 1993, LB 121, § 453; Laws 2003, LB 242, § 140. Operative date July 1, 2004.

**71-6108. Applicant for licensure; examination; requirements.** (1) Each applicant for licensure pursuant to the Occupational Therapy Practice Act shall be examined by a written examination which tests his or her knowledge of the basic and clinical sciences relating to occupational therapy and occupational therapy theory and practice including, but not limited to, professional skills and judgment in the utilization of occupational therapy techniques and methods and such other subjects as the board may deem useful to determine the applicant's fitness to practice. The board shall approve the examination and establish standards for acceptable performance. The board may choose a nationally standardized occupational therapist and occupational therapy assistant entry-level examination.

(2) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine. The board shall notify all applicants by mail of the time and place of the examination.

(3) The department may adopt and promulgate rules and regulations to provide for the review of procedures for the development and administration of examinations and to protect the security of the content of examination questions and answers. The department shall not enter into an agreement to adopt an examination from a national testing service without first obtaining from that service detailed documentation of the process of examination development and maintenance.

Source: Laws 1984, LB 761, §36; Laws 1985, LB 250, §18; Laws 1987, LB 473, §61. Effective date March 27, 1987.

**71-6109. Occupational therapist, therapy assistant; alternative licensure.** (1) The department shall grant a license as an occupational therapist or occupational therapy assistant to any applicant who has actively practiced in the respective field for at least one of the five years immediately prior to July 10, 1984, and who is certified as a registered occupational therapist or who is a certified occupational therapy assistant in accordance with guidelines established by a national association.

(2) The department may waive the examination requirements in the Occupational Therapy Practice Act and grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or territory of the United States which requires standards for licensure considered by the department to be substantially equivalent to the requirements for licensure of the Occupational Therapy Practice Act.

Source: Laws 1984, LB 761, §37; Laws 1985, LB 250, §19; Laws 1986, LB 926, §62. Effective date April 19, 1986.

**71-6110. License; issuance.** The department shall issue a license to any person who meets the requirements of the Occupational Therapy Practice Act.

Source: Laws 1984, LB 761, § 38; Laws 2003, LB 242, § 141. Operative date July 1, 2004.

**71-6111. Department; enforcement and disciplinary powers.** The department shall have the power to enforce the Occupational Therapy Practice Act and to deny, revoke, or suspend any license to practice as an occupational therapist or occupational therapy assistant issued by the department or applied for in accordance with section 71-6108 or to otherwise discipline a licensee on the grounds as specified in sections 71-147 and 71-148 and in the manner provided in the Uniform Licensing Law.

Source: Laws 1984, LB 761, §39; Laws 1988, LB 1100, §176; Laws 1991, LB 456, §39. Effective date September 6, 1991.

**71-6112. Act; violations; penalty; investigators.** Any person who violates any provision of the Occupational Therapy Practice Act shall be guilty of a Class III misdemeanor and such violation by a person licensed under such act shall be cause for disciplinary action prescribed in section 71-6111. The department may appoint investigators pursuant to section 71-124.01 to assist in enforcing the provisions of the Occupational Therapy Practice Act.

Source: Laws 1984, LB 761, §40. Effective date July 10, 1984.

**71-6113. License; renewal; reinstatement; continuing competency.** (1)(a) Licenses issued under the Occupational Therapy Practice Act shall be subject to biennial renewal and shall expire August 1 of each even-numbered year unless renewed in the manner provided by section 71-110 upon completion of the continuing competency activities as required under subsection (2) of this section and upon payment of the renewal fee established as provided in section 71-162.

(b) A licensee whose license is revoked for nonpayment of the biennial renewal fee as provided in section 71-110 may be reinstated upon the recommendation of the board and the payment of the required fees established as provided in section 71-162, except that no reinstatement of a license may be granted more than five years after its expiration.

(2)(a) Each Nebraska-licensed occupational therapist in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, complete continuing competency activities as required by the board as a prerequisite to renewal of his or her license.

(b) Each Nebraska-licensed occupational therapy assistant in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, complete continuing competency activities as required by the board as a prerequisite to renewal of his or her license.

(3) Every occupational therapist and occupational therapy assistant shall provide documentation of completing such continuing competency activities as required by the board.

The board shall biennially select, in a random manner, a representative sample of the license renewal applications for audit of compliance with continuing competency requirements.

(4) The department, on the recommendation of the board, may waive continuing competency requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

(a) The licensee holds a Nebraska license but does not reside or practice in Nebraska;

(b) The licensee has served in the regular armed forces of the United States during part of the twenty-four months immediately preceding the license renewal date;

(c) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required continuing competency activities during the twenty-four months preceding the license renewal date;

(d) The licensee has been initially licensed by the board within the twenty-four months immediately preceding the license renewal date; and

(e) The licensee has successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to occupational therapy.

Source: Laws 1984, LB 761, § 41; Laws 1994, LB 1223, § 77; Laws 2001, LB 346, § 2; Laws 2002, LB 1021, § 96; Laws 2003, LB 242, § 142; Laws 2004, LB 1005, § 129. Operative date July 16, 2004.

**71-6114. Fees.** The department shall establish and collect fees for credentialing activities under the Occupational Therapy Practice Act as provided in section 71-162.

Source: Laws 1984, LB 761, § 42; Laws 1986, LB 926, § 63; Laws 1988, LB 1100, § 177; Laws 1992, LB 1019, § 92; Laws 1994, LB 1223, § 78; Laws 2003, LB 242, § 143. Operative date July 1, 2004.

**71-6115. Board of Occupational Therapy Practice; established; members; terms; expenses; officers.** The Board of Occupational Therapy Practice is established. The board shall consist of at least four members appointed by the State Board of Health, all of whom shall be residents of this state. Any statewide association of occupational therapists may submit a list of names of qualified persons from which the State Board of Health may choose members of the Board of Occupational Therapy Practice. Three of the persons appointed shall have been engaged in rendering services to the public, teaching, or research in occupational therapy for at least five years immediately preceding their appointments. Two of the persons appointed shall be occupational therapists and one shall be either an occupational therapist or an occupational therapy assistant and all shall be holders of active licenses issued under the Occupational Therapy Practice Act during their terms. The fourth member shall be a member of the public with an interest in the rights of the consumers of health services. The members of the board shall serve five-year terms, except that the initial members of the board shall serve as follows: The member of the public shall serve one year and the remaining members shall serve terms of two, three, and four years as the State Board of Health shall designate. The term of each member shall commence on December 1 following the expiration of the preceding term. No person shall serve more than two full consecutive terms on the board. The State Board of Health shall fill any vacancy for an unexpired term in the same manner as the initial appointment. The members shall not receive compensation but shall be reimbursed for their actual expenses incurred while in the performance of their duties in the same manner as state employees pursuant to sections 81-1174 to 81-1177. The board shall annually elect a chairperson and such other officers as it deems necessary and shall meet at least once per year or more as the department and board shall determine. Members of the board may be removed from office on the grounds and in the manner provided by section 71-118.

Source: Laws 1984, LB 761, § 43; Laws 1987, LB 473, § 62; Laws 1988, LB 1100, § 178; Laws 2001, LB 346, § 3; Laws 2002, LB 1021, § 97; Laws 2004, LB 1005, § 131. Operative date July 16, 2004.

**71-6116. Repealed.** Laws 2003, LB 242, § 154.

**71-6117. Occupational therapy aide; supervision requirements.** An occupational therapy aide shall function under the guidance and responsibility of an occupational therapist and may be supervised by an occupational therapist or an occupational therapy assistant for specifically selected routine tasks for which the aide has been trained and has demonstrated competence. The aide shall comply with supervision requirements developed by the board. The board shall develop supervision requirements for aides which are consistent with prevailing professional standards.

Source: Laws 2004, LB 1005, § 123. Operative date July 16, 2004.

**71-6118. Occupational therapist; services authorized.** An occupational therapist may perform the following services:

(1) Evaluate, develop, improve, sustain, or restore skills in activities of daily living, work activities, or productive activities, including instrumental activities of daily living, and play and leisure activities;

(2) Evaluate, develop, remediate, or restore sensorimotor, cognitive, or psychosocial components of performance;

(3) Design, fabricate, apply, or train in the use of assistive technology or orthotic devices and train in the use of prosthetic devices;

(4) Adapt environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;

(5) If certified pursuant to section 71-6122, apply physical agent modalities as an adjunct to or in preparation for engagement in occupations when applied by a practitioner who has documented evidence of possessing the theoretical background and technical skills for safe and competent use;

(6) Evaluate and provide intervention in collaboration with the client, family, caregiver, or others;

(7) Educate the client, family, caregiver, or others in carrying out appropriate nonskilled interventions; and

(8) Consult with groups, programs, organizations, or communities to provide population-based services.

Source: Laws 2004, LB 1005, § 124. Operative date July 16, 2004.

**71-6119. Occupational therapy assistant; supervision required.** An occupational therapy assistant may deliver occupational therapy services enumerated in section 71-6118 in collaboration with and under the supervision of an occupational therapist.

Source: Laws 2004, LB 1005, § 125. Operative date July 16, 2004.

**71-6120. Referrals.** (1) An occupational therapist may accept a referral from a licensed health care professional for the purpose of evaluation and rehabilitative treatment which may include, but not be limited to, consultation, rehabilitation, screening, prevention, and patient education services.

(2) Referrals may be for an individual case or may be for an established treatment program that includes occupational therapy services. If programmatic, the individual shall meet the criteria for admission to the program and protocol for the treatment program shall be established by the treatment team members.

(3) Referrals shall be in writing, except that oral referrals may be accepted if they are followed by a written and signed request of the person making the referral within thirty days after the day on which the patient consults with the occupational therapist.

Source: Laws 2004, LB 1005, § 126. Operative date July 16, 2004.

**71-6121. Direct access to services.** The public may have direct access to occupational therapy services.

Source: Laws 2004, LB 1005, § 127. Operative date July 16, 2004.

**71-6122. Physical agent modalities; certification required.** (1) In order to apply physical agent modalities, an occupational therapist shall be certified pursuant to this section. The department shall issue a certificate to an occupational therapist to administer a physical agent modality if the occupational therapist:

(a) Has successfully completed a training course approved by the board and passed an examination approved by the board on the physical agent modality;

(b) Is certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the board;

(c) Has a minimum of five years of experience in the use of the physical agent modality and has passed an examination approved by the board on the physical agent modality; or

(d) Has completed education during a basic educational program which included demonstration of competencies for application of the physical agent modality.

(2) The department shall issue a certificate to authorize an occupational therapy assistant to set up and implement treatment using superficial thermal agent modalities if the occupational therapy assistant has successfully completed a training course approved by the board and passed an examination approved by the board. Such set up and implementation shall only be done under the onsite supervision of an occupational therapist certified to administer superficial thermal agent modalities.

(3) An occupational therapist shall not delegate evaluation, reevaluation, treatment planning, and treatment goals for physical agent modalities to an occupational therapy assistant.

Source: Laws 2004, LB 1005, § 128. Operative date July 16, 2004.

**71-6123. Rules and regulations.** (1) The department, with the approval of the board, shall adopt and promulgate rules and regulations necessary to administer the Occupational Therapy Practice Act to protect the public health, safety, and welfare and to insure, to the greatest extent possible, the efficient, adequate, and safe practice of occupational therapy.

(2) The rules and regulations shall include (a) definitions of unprofessional conduct, (b) definitions of conflicts of interest for members of the board and procedures in the case such a conflict arises, (c) role delineation for occupational therapy assistants, and (d) continuing competency requirements. Continuing education is sufficient to meet continuing competency requirements. Such requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a licensed person may select as an alternative to continuing education.

(3) Except as provided in subsection (4) of this section, the department, with the approval of the board, shall adopt and promulgate rules and regulations to implement Laws 2004, LB 1005, and shall provide for the changes regarding scope of practice to be implemented for licensees as soon as the rules and regulations become effective.

(4) The board may adopt and promulgate rules and regulations governing the training courses for an occupational therapist to be certified to administer a physical agent modality. The board may adopt and promulgate rules and regulations governing the training course for an occupational therapy assistant to be certified to set up and implement superficial thermal agent modalities.

In adopting such rules and regulations, the board shall give consideration to the levels of training and experience which are required, in the opinion of the board, to protect the public health, safety, and welfare and to insure, to the greatest extent possible, the efficient, adequate, and safe practice of occupational therapy. Such rules and regulations shall include the approval of examinations and the passing score for such examinations for certification.

Source: Laws 2004, LB 1005, § 130. Operative date July 16, 2004.

Effective Date  
114 June 29, 2004

NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

172 NAC

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 114 PRACTICE OF OCCUPATIONAL THERAPY

114-001 SCOPE AND AUTHORITY: These regulations are intended to implement the laws governing the practice of occupational therapy and set forth the procedures for licensing pursuant to Neb. Rev. Stat. §§ 71-6101 to 71-6116 and the Uniform Licensing Law, 71-110, 71-147 to 71-161.19.

114-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 71-6101 to 71-6116, known as the Practice of Occupational Therapy.

Approved program means:

1. A program for the education of occupational therapists which is recognized by the Department and accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association in collaboration with the Committee on Allied Health Education and Accreditation of the American Medical Association.
2. A program for the education of occupational therapy assistants which is recognized by the Department and accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association in collaboration with the committee on Allied Health Education and Accreditation of the American Medical Association.

Approved supervised field work experience means a period of supervised field work experience at an educational institution approved by the Department and where the occupational therapist's or occupational therapy assistant's academic work was completed or which was part of a training program approved by such educational institution. A minimum of six months of supervised field work experience will be required for an occupational therapist and a minimum of two months of supervised field work experience is required for an occupational therapy assistant.

Association means a recognized national or state association for occupational therapy.

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

Audit means the selection of licensees for verification of satisfactory completion of the continuing education requirements of the act during the biennium.

Board means the Board of Occupational Therapy Practice.

Certified occupational therapy assistant means a person who is certified pursuant to guidelines established by the National Board for Certification in Occupational Therapy (NBCOT).

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

Consultation or in association with means providing professional advice.

Continuing education means planned, organized learning activities designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

Continuing education activity means the various methods in which a licensee can obtain the necessary continuing education for license renewal.

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 as it relates to continuing education means at least 60 minutes of participation in an organized learning experience otherwise known as a "contact hour."

1. One academic semester hour is equal to 15 contact hours. Thus an approved three credit hour course would provide 45 contact hours of continuing education credit.
2. One academic quarter hour is equal to ten contact hours. Thus an approved three credit hour course would provide 30 contact hours of continuing education credit.

Inactive license means the voluntary termination of the right or privilege to practice as a licensed occupational therapist or occupational therapy assistant. The licensee retains the right or privilege to represent himself/herself as having an inactive license.

Lapsed license means the voluntary termination of the right or privilege to represent oneself as a licensed person and to practice as a licensed occupational therapist or occupational therapy assistant.

Licensure examination means the National Board for Certification in Occupational Therapy (NBCOT) Examination administered by the Professional Examination Service.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 114.

National association means the American Occupational Therapy Association or equivalent organization.

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Occupational therapist means a person holding an active license as an occupational therapist.

Occupational therapy means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence, prevent disability, and maintain health. Occupational therapy encompasses evaluation, treatment, and consultation. Occupational therapy may include teaching daily living skills, developing perceptual-motor skills and sensory integrative

functioning, developing prevocational capacities, designing, fabricating, or applying selected orthotic and prosthetic devices or selective adaptive equipment, using specifically designed therapeutic media and exercises to enhance functional performance, administering and interpreting tests such as manual muscle and range of motion, and adapting environments for the handicapped.

Occupational therapy aide means a person who assists in the practice of occupational therapy, who works under the supervision of an occupational therapist, and whose activities require an understanding of occupational therapy but do not require professional or advanced training or licensure.

Occupational therapy assistant means a person holding an active license as an occupational therapy assistant.

Official means issued by and under the original seal of the issuing institution.

Onsite means the location where the occupational therapy assistant is providing occupational therapy services.

Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of occupational therapy.

Registered occupational therapist means a person who is certified pursuant to guidelines established by the National Board for Certification in Occupational Therapy (NBCOT).

Supervision means the process by which the quantity and quality of work of an occupational therapy assistant is monitored. Supervision means the directing of the authorized activities of an occupational therapy assistant by a licensed occupational therapist and will not be construed to require the physical presence of the supervisor when carrying out assigned duties.

Treatment plan means a written statement setting forth the goals, method of treatment, and time frame for goal achievement.

Verified means sworn to before a Notary Public.

114-003 REQUIREMENTS FOR ISSUANCE OF LICENSE AND TEMPORARY PERMITS: Any person who wishes to represent himself/herself as a licensed occupational therapist or a licensed

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REGULATION AND LICENSURE

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occupational therapy assistant after July 10, 1984 must obtain a license or temporary permit. The criteria for issuance of licenses and permits, and the documentation required by the Department and the Board are set forth below.

114-003.01 Licensure of an Occupational Therapist

114-003.01A An applicant for a license to practice as an occupational therapist on the basis of examination must:

1. Have successfully completed the academic requirements of an approved program for occupational therapists;
2. Have successfully completed a minimum of six months of approved supervised field work experience at the educational institution approved by the Department where the applicant's academic work was completed or which is part of a training program approved by such educational institution;
3. Have passed the licensure examination with a scaled score of 450; and
4. Submit to the Department:
  - a. An official transcript showing completion of an approved program for occupational therapists and showing completion of approved supervised field work experience;
  - b. Official documentation of passing the examination;
  - c. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers. Only applications which are complete will be considered; and
  - d. Attestation by the applicant:
    - (1) That s/he has not practiced in Nebraska prior to the application for a license; or
    - (2) To the actual number of days practiced in Nebraska prior to the application for a license; and
  - e. The required license fee.
5. The Department will act within 150 days upon all completed applications for licensure.

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REGULATION AND LICENSURE

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6. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.
7. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty

under 172 NAC 114-014 or such other action as provided in the statutes and regulations governing the license.

114-003.01B An applicant for a license to practice as an occupational therapist on the basis of experience and certification by a National Association as a registered occupational therapist must:

1. Have actively practiced occupational therapy for at least one year of the five years immediately prior to July 10, 1984;
2. Have obtained certification as a registered occupational therapist from the American Occupational Therapy Certification Board; and
3. Submit to the Department:
  - a. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers. Only applications that are complete will be considered;
  - b. Official documentation of certification as a registered occupational therapist by the American Occupational Therapy Certification Board;
  - c. Official documentation about employment showing practice in good standing as an occupational therapist for at least one year of the five years immediately prior to July 10, 1984, on a form provided by the Department, a copy of which is attached as Attachment A1 and incorporated into these regulations pursuant to 172 NAC 114; and
  - d. Attestation by the applicant:
    - (1) That s/he has not practiced in Nebraska prior to the application for a license; or
    - (2) To the actual number of days practiced in Nebraska prior to the application for a license; and
  - e. The required license fee.

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4. The Department will act within 150 days upon all completed applications for licensure.
5. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.
6. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty pursuant to 172 NAC 114-014 or such other action as provided in the statutes and regulations governing the license.

114-003.02 Licensure of an Occupational Therapy Assistant

114-003.02A An applicant for a license to practice as an occupational therapy assistant on the basis of examination must:

1. Have successfully completed the academic requirements of an approved program for occupational therapy assistants;
2. Have successfully completed a minimum of two months of an approved supervised field work experience at the educational institution approved by the Department and where the applicant's academic work was completed or which is part of a training program approved by the educational institution;
3. Have passed the licensure examination with a scaled score of 450; and
4. Submit to the Department:
  - a. An official transcript showing completion of an approved program for occupational therapy assistants and showing completion of approved supervised field work experience;
  - b. Official documentation of passing the examination;
  - c. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers. Only applications which are complete will be considered; and
  - d. Attestation by the applicant:

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- (1) That s/he has not practiced in Nebraska prior to the application for a license; or
  - (2) To the actual number of days practiced in Nebraska prior to the application for a license; and
- e. The required license fee.
5. The Department will act within 150 days upon all completed applications for licensure.
  6. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.
  7. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty pursuant to 172 NAC 114-014 or such other action as provided in that statutes and regulations governing the license.

114-003.02B An applicant for a license to practice as an occupational therapy assistant on the basis experience and certification by a National Association as a certified occupational therapy assistant must:

1. Have actively practiced occupational therapy for at least one year of the five years immediately prior to July 10, 1984;
2. Have obtained certification as a Certified Occupational Therapy Assistant from the American Occupational Therapy Certification Board; and
3. Submit to the Department:
  - a. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers. Only applications that are complete will be considered;
  - b. Official documentation of certification as a Certified Occupational Therapy Assistant by the American Occupational Therapy Certification Board;
  - c. Official documentation of employment showing practice in good standing as an occupational therapy assistant for at least one year of the five years immediately prior to July 10, 1984, on a form provided by the Department, a copy of which is attached as Attachment A1 and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A1 or by using an alternate format, which s/he prefers;

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- d. Attestation by the applicant:
    - (1) That s/he has not practiced in Nebraska prior to the application for a license; or
    - (2) To the actual number of days practiced in Nebraska prior to the application for a license; and
  - e. The required license fee; and
- 4. The Department will act within 150 days upon all completed applications for licensure.
  - 5. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.
  - 6. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty under 172 NAC 114-014 or such other action as provided in the statutes and regulations governing the license.

114-003.03 License Based on a License Issued in Another Jurisdiction: An applicant for a license to practice as an Occupational Therapist or Occupational Therapy Assistant on the basis of licensure in another jurisdiction must:

- 1. Provide proof of current licensure as an occupational therapist or occupational therapy assistant in another jurisdiction;
- 2. Provide documentation that the standards for licensure as an occupational therapist or occupational therapy assistant in the other jurisdiction are substantially equivalent to the requirements for licensure of the Occupational Therapy Practice Act;
- 3. Submit to the Department:
  - a. A complete application on a form provided by the Department, a copy of which is attached as Attachment A, and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers. Only applications which are complete will be considered; and
  - b. Attestation by the applicant:
    - (1) That s/he has not practiced in Nebraska prior to the application for a license; or

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- (2) To the actual number of days practiced in Nebraska prior to the application for a license; and
      - c. The required licensure fee
4. Have the licensing or certifying agency submit to the Department:
  - a. A certification that the applicant is duly licensed or certified, that his/her license or certificate has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement, on a form provided by the Department, a copy of which is attached as Attachment A2, and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment A2 or by using an alternate format, which s/he prefers;
  - b. The nature of disciplinary actions, if any, taken against the applicant's license or certificate;
  - c. The date of the applicant's license or certificate;
  - d. The name of the examination on which licensure was based;
  - e. The score attained on the examination; and
  - f. Documentation of the requirements for licensure or certification in the other jurisdiction which are currently in effect and which were in effect at the time the license was issued.
5. The Department must review the documents submitted to determine if the applicant is currently licensed in the other jurisdiction and if such licensure was based upon standards which are substantially equivalent to the requirements for licensure of the Occupational Therapy Practice Act.
6. The Department will act within 150 days upon all completed applications for licenses.
7. When a license will expire within 180 days after its initial issuance date, the Department will collect \$26, and the license will be valid until the next subsequent renewal date.
8. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty under 172 NAC 114-014 or such other action as provided in the statutes and regulations governing the license.

114-003.04 Temporary Permit: A temporary permit may be issued to an applicant who has met all requirements for licensure pursuant to 172 NAC 114-003.01 or 114-003.02, except for passing the licensure examination, and who has not previously taken the licensure examination. Such applicant must:

1. Submit to the Department:
  - a. A complete application on a form provided by the Department, a copy of which is attached as Attachment B and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he  
  
may apply by filling out Attachment B or by using an alternate format, which s/he prefers. Only applications which are complete will be considered;
  - b. An official transcript showing completion of an approved program for occupational therapists or occupational therapy assistants and completion of approved supervised field work experience;
  - c. Attestation by the applicant:
    - (1) That s/he has not practiced in Nebraska prior to the application for a license; or
    - (2) To the actual number of days practiced in Nebraska prior to the application for a license; and
  - d. The required fee
2. The temporary permit is valid until the date the results of the licensure examination are available to the Department for the first examination administered after the issuance of the temporary permit.
3. The Department will act within 150 days upon all completed applications for a temporary permit.
4. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty under 172 NAC  
  
114-014 or such other action as provided in the statutes and regulations governing the license.

114-003.05 Extension of Temporary Permit: A temporary permit holder who was unable to take the licensure examination may apply for an extension of his/her temporary permit.

114-003.05A An applicant for extension of a temporary permit must:

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1. Provide documentation showing good cause, which includes but is not limited to, illness, active military service, or other circumstances which prevented the applicant from taking the licensure examination; and
2. Submit to the Department:
  - a. A complete application on a form provided by the Department, a copy of which is attached as Attachment C and incorporated into these regulations pursuant to 172 NAC 114. At the option of the applicant, s/he may apply by filling out Attachment C or by using an alternate format, which s/he prefers. Only applications which are complete will be considered; and
  - b. A verified copy of military orders delineating dates of active duty;
  - c. A statement from an attending physician stating the general nature of the illness or injury and the recovery period;
  - d. Documentation of other circumstances which prohibited the taking of the licensure examination.

114-003.05B An applicant is ineligible for an extension if s/he:

1. Failed the licensure examination; or
2. Held a temporary Occupational Therapy permit for one year.

114-003.05C The Department may, upon recommendation of the Board, grant or deny an application for extension of a temporary permit.

114-003.05C1 When the Department determines to deny an application for extension of a temporary permit, it will send to the applicant by certified mail a notice setting forth the reasons for the denial determination.

114-003.05C2 The applicant has 30 days from the date of receipt of the denial notice to make a request to the Department for an appeal. The appeal must be conducted pursuant to 184 NAC 1, Rules of Practice and Procedure for the Department.

114-003.05C3 The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.

114-003.05D Failure to submit the required documentation will result in automatic rejection of the application for extension.

114-003.05E Falsification of any information submitted for extension of a temporary permit will require the Department to refuse to grant an extension of a temporary permit.

114-004 EXAMINATION ELIGIBILITY

114-004.01 To be eligible to take the licensure examination, an applicant must have met all the requirements for licensure that are pursuant to 172 NAC 114-003.01 or 114-003.02 except passage of such examination.

114-004.02 To take the examination, an applicant must submit a complete examination application form and fee to: NBCOT Testing Office, Professional Examination Service, 475 Riverside Drive, New York, NY 10115 or register online at [www.nbcot.org](http://www.nbcot.org).

114-005 RESERVED

114-006 RENEWAL REQUIREMENTS FOR OCCUPATIONAL THERAPIST AND OCCUPATIONAL THERAPY ASSISTANT LICENSES: All licenses issued by the Department

pursuant to the Act and 172 NAC 114 expire on August 1 of each even-numbered year.

114-006.01 Renewal Process: Any licensee who wishes to renew his/her license must:

1. Meet continuing education requirements pursuant to 172 NAC 114-010;
2. Pay the renewal fee pursuant to 172 NAC 114-011;
3. Respond to the following questions:
  - a. Has your license in any health care profession in another state been revoked, suspended, limited, or disciplined in any manner?
  - b. Have you been convicted of a misdemeanor or a felony?

These questions related 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 expiration date; and

4. Cause to be submitted to the Department:
  - a. The renewal notice;
  - b. The renewal fee; and
  - c. Attestation of completing 20 hours of continuing education for Occupational Therapists and 15 hours for Occupational Therapy Assistants, earned within 24 months of the date of expiration or application for waiver of continuing competency requirements. 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:

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- (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.

114-006.02 First Notice: At least 30 days before August 1 of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee's last known address 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.

114-006.02A The renewal notice will specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee pursuant to 172 NAC 114-011;
6. The number of continuing education hours required for renewal; and
7. The option to place the license on either inactive or lapsed status.

114-006.02B 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 20 hours of continuing education for Occupational Therapists and 15 hours for Occupational Therapy Assistants, earned within 24 months of the date of expiration or application for waiver of continuing competency requirements; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).

114-006.02C 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:

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- a. The renewal notice with a check in the box marked lapsed.

114-006.02D 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.

114-006.03 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 114-006.02 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 114-014 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with the additional late fee of \$25, and documentation of continuing competency requirements within that time, no order of  
of  
revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee and documentation of completion of continuing competency requirements, the license will be revoked pursuant to 172 NAC 114-007.

114-006.04 The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional 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 20 hours of continuing education for Occupational Therapists and 15 hours for Occupational Therapy Assistants, earned within 24 months of the date of expiration or waiver of continuing competency requirements; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

114-006.05 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

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Department:

- a. The renewal notice with a check in the box marked lapsed.

114-006.06 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.

114-006.07 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency requirements and/or to pay an additional fee of \$25 the Department will automatically revoke the license without further notice or hearing and will make proper record of the revocation.

114-006.08 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of license, unless a waiver of continuing competency requirements 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/or to pay an additional late fee of \$25, the Department will revoke the license after notice and opportunity for hearing. Hearings held before the Department will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

114.006.09 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 114-006.07 and 006.08 will not apply.

114-006.10 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, the Rules of Practice and Procedure for the Department.

114-006.11 An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty under 172 NAC 114-014, or such other action as provided in the statutes and regulations governing the credential.

114-007 LICENSURE/CERTIFICATION REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department will revoke a license to practice Occupational Therapy when the licensee fails to meet the renewal requirements.

114-007.01 Revocation For Non-Payment of Renewal Fee

114-007.01A When a licensee fails to pay the required renewal fee, to submit documentation of continuing competency requirements and/or to pay an additional fee of \$25 and fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department will automatically revoke the license without further notice or hearing and will make proper record of the revocation.

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114-007.01A1 The revocation notice must specify:

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

114-007.02 Revocation for Failure to Meet Continuing Competency Requirements

114-007.02A When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirement for licensure renewal or to request that his/her license be placed on either inactive or lapsed status, the Department will revoke his/her license after notice and opportunity for a hearing.

114-007.02A1 The notice of failure to meet continuing competency requirements must specify that:

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

114-008 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

114-008.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 114-003 or is found to be in violation of any of the provisions pursuant to 172 NAC 114-008.03.

114-008.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 114-006 or in 172 NAC 114-008.03.

114-008.03 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, certificate, or registration.
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, licensee's, certificate holder's, or registrant'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 conducts 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, certificate or registration by a person not licensed, certified, or registered to do so.
9. Having had his/her license, certificate, or registration denied, refused renewal, limited, suspended, or revoked, or having had such license, certificate, or registration disciplined in any other manner pursuant to Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice Occupational Therapy, based upon acts by the applicant, licensee, certificate holder, or registrant similar to acts pursuant to 172 NAC 114-008. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or

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registration or the taking of other disciplinary measures against it by another state or jurisdiction will be conclusive evidence.

10. Unprofessional conduct, which term includes all acts pursuant to Neb. Rev. Stat. § 71-148 and other acts which include but are not limited to:
  - a. Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the licensee, certificate holder, or registrant;
  - b. Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured;
  - c. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a patient/client;
  - d. Obtaining any fee for professional services by fraud, deceit, or misrepresentation including, but not limited to, falsification of third party claim documents;
  - e. Cheating on or attempting to subvert the licensing or certification examination;
  - f. Assisting in the care or treatment of a patient/client without the consent of such patient/client or his/her legal representative;
  - g. The use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that such person is entitled to practice a system or mode of healing for which s/he is not licensed, certified, or registered;
  - h. Willful betrayal of a professional secret except as otherwise provided by law;
  - i. Making use of any advertising statements of a character tending to deceive or mislead the public;
  - j. Advertising professional superiority or the performance of professional services in a superior manner;
  - k. Failure to accurately represent his/her skills to a patient/client;
  - l. Delegating to other personnel those patient/client related services when the clinical skills and expertise of an occupational therapist is required;

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- m. Failure to decline to carry out occupational therapy services that have been requested when such services are believed to be contraindicated or unjustified;
- n. Committing any act which endangers patient/client safety or welfare;
- o. Failure to utilize appropriate judgement in administering safe Occupational Therapy practice;
- p. Failure to exercise technical competence in carrying out Occupational Therapy;
- q. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
- r. Failure to safeguard the patient's dignity and right to privacy;
- s. Violating the confidentiality of information or knowledge concerning the patient;
- t. Failure to accurately record and report information or falsification or unauthorized destruction of patient records;
- u. Misappropriating supplies or personal items of a patient/client or agency;
- v. Exercising undue influence on patients/clients to purchase equipment produced or supplied by a company in which the Occupational Therapist owns stock or has any other direct or indirect financial interest;
- w. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
- x. Verbally or physically abusing patients.
- y. Sexual Harassment: An Occupational Therapist must not under any circumstances engage in sexual harassment of patients.
  - (1) Sexual Harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature as a condition of:
    - (a) The provision or denial of Occupational Therapy to a patient;  
or
    - (b) For the purpose or effect of creating an intimidating, hostile, or offensive environment for the patient or unreasonably interfering with a patient's ability to recover.

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- z. Violating an assurance of compliance entered into under Neb. Rev. Stat. § 71-171.02;
  - aa. Failure to conform to the ethics of the profession as specified in the American Occupational Therapy Association's "Code of Ethics", a copy of which is attached hereto as Attachment K, and incorporated in these regulations pursuant to 172 NAC 114;
  - bb. Failure or departure from the standards of acceptable and prevailing practice in occupational therapy.
11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's, certificate holder's, or registrant'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 rules and regulations of the Department relating to the licensee's, certificate holder's, or registrant's profession.
  15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee, certificate holder, or registrant is not licensed, certified, or registered to practice.
  16. Practicing the profession of Occupational Therapy while his/her license, certificate or registration is suspended or is guilty of practicing such profession while his/her license to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his/her license, certificate, or registration.
  17. When the applicant is found to be not qualified to practice the particular profession or occupation for which s/he is applying, or licensed because of physical or mental illness or physical or mental deterioration or disability.
  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 the profession or occupation for which application was made or for which s/he is licensed.

114-008.04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend the license of any licensee other than for non-payment of renewal fee, the applicant or

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licensee will be given an opportunity for a hearing before the Department and will have the right to present evidence on his/her own behalf. Hearings before the Department will be conducted pursuant to the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

114-009 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.

114-009.01 Eligibility

114-009.01A 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 pursuant to these regulations.

114.009.01B 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.

114-009.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 114-014, 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.

114-009.02 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 114-003.

114-009.02A 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 114-014;
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

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114-009.02B 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.

114-009.02C The Department will act within 150 days on all completed applications.

114-009.02D The applicant will be provided with notice and the opportunity for hearing pursuant to 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 114-009.02A and 114-009.02B are final.

114-009.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from

inactive to active status upon proof to the Department that they meet the following requirements:

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

114-09.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
  - a. Name;
  - b. Address;
  - c. Social Security Number; and
  - d. If the applicant holds a professional credential in another state, a list of the

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

114-009.04A If an applicant has practiced while his/her credential was inactive, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 114-014;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to move the credential from inactive to active status; or
- 4. Move the credential to active status and impose limitation(s) or other

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114-009.04B 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.

114-009.04C In either event pursuant to 172 NAC 114-009.04A or 114-009.04B, a notice and the opportunity for hearing will be given to the applicant.

114-009.04D The Department will act within 150 days on all completed applications.

114-009.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

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

114-009.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

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

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- 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.
- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
- [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 applicant.
- f. Attestation that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees.
3. Attestation by the applicant:
- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
  - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
- (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 114-014 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 pursuant to 172 NAC 114-009.06B.

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

114-009.06A The Board's recommendation to the Department may be to:

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

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3. Deny reinstatement.

114-009.06B 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 the credential: An Administrative Penalty may be assessed pursuant to 172 NAC 114-014 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 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 114-014 if warranted; or
  - b. Deny reinstatement: In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

114-009.07 Requirements for Reinstatement More Than One Year Following Revocation for

failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more

than one year after revocation for failure to meet the renewal requirements must:

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

114-009.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

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

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- (c) Disciplinary charges pending against any professional credential held by the petitioner.
- (6) Attestation that the continuing competency requirements for renewal have been met.
- 2. The renewal fee, the late fee of \$75 and any other applicable fees.
- 3. Attestation by the petitioner:
  - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
  - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
    - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 114-014 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 pursuant to 172 NAC 114-009.08F.

114-009.08A 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.

114-009.08B 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.

114-009.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

114-009.08D 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.

114-009.08D1 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.

114-009.08E 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.

114-009.08F The Board will review the petition to recommend reinstatement and the

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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.

114-009.08F1 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.

114-009.08F2 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.

114-009.08F3 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.

114-009.08F4 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.

114-009.08F5 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.

114-009.09 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;

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- 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
  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.

114-009.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
  - a. Stating the reason the petitioner believes his/her credential should be reinstated;
  - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
  - c. Containing the following information about the petitioner:
    - (1) Name;
    - (2) Address;
    - (3) Social Security Number; and
    - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
    - (5) A statement describing all:
      - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;

- [1] If the petitioner has been convicted of a felony or misdemeanor provide copies of:
- [a] Official Court Record, which includes charges and disposition;
  - [b] Arrest records;

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- [c] A letter from the petitioner explaining the nature of the conviction;
  - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
  - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
    - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
  - (c) Disciplinary charges pending against any professional credential held by the petitioner;
- (6) Any continuing competency activities.
- 2. The reinstatement fee of \$75.
  - 3. Attestation by the petitioner, if the credential was revoked or suspended:
    - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
    - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
      - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 114-014 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 pursuant to 172 NAC 114-009.10G.

114-009.10A 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

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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.

114-009.10B 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.

114-009.10C 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.

114-009.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

114-009.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition will be granted by the Board, if formally requested by the petitioner.

114-009.10E1 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.

114-009.10E2 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.

114-009.10F 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.

114-009.10G 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.

114-009.10G1 If the Board recommends reinstatement of the credential:

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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 pursuant to 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.

114-009.10G2 If the Board recommends reinstatement of the credential with

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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 pursuant to 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.

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114-009.10G3 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.

114-009.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

114-009.11A 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.

114-009.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
  - a. Name;
  - b. Address;
  - c. Social Security Number; and
  - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
  - e. A statement describing all:
    - (1) Felony or misdemeanor convictions during the time period since the credential was active;
      - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
        - [1] Official Court Record, which includes charges and disposition;
        - [2] Arrest records;
        - [3] A letter from the applicant explaining the nature of the conviction;
        - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
        - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
      - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant

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during the time period since the credential was active;  
(a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including

charges and disposition; and

(3) Disciplinary charges pending against any professional credential held by the applicant.

f. Any continuing competency activities.

g. Attest:

- (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
- (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

114-009.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 114-014;
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.

114-009.11A3 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.

114-009.11A4 In either event pursuant to 172 NAC 114-009.11A2 or 114-009.11A3, a notice and the opportunity for hearing will be given to the applicant.

114-009.11A5 The Department will act within 150 days on all completed applications.

114-009.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

114-009.12A 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.

114-009.12B If an individual has practiced while his/her credential was voluntarily

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surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 114-014.

114-009.13 Credentials Voluntarily Surrendered or Limited Permanently

114-009.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

114-009.14 Reapplication After Five Years Revocation: A person whose license has been revoked for non-payment of renewal fees and who has not requested reinstatement within five years of the date of revocation must reapply to the Department.

114-009.14A The applicant must meet the requirements for licensure that are in effect at the time of reapplication for licensure pursuant to 172 NAC 114-003; and 114-009.14B Submit to the Department:

1. A complete application for a new license on a form that will be provided by the Department, a copy of which is provided as Attachment A. At the option of the applicant, s/he may apply by filling out Attachment A or by using an alternate format, which s/he prefers:
2. Documentation of meeting licensure requirements pursuant to 172 NAC-003; and
3. The required licensure fee.

114-010 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSURE

114-010.01 General Requirements for Licensure: On or before August 1, 2002, and on or before August 1 of each even numbered year thereafter, each occupational therapist and each occupational therapy assistant who is in active practice and in the State of Nebraska must:

1. Complete continuing education hours to renew a license during the preceding 24 month period. Each occupational therapist must complete 20 hours of continuing education and each occupational therapy assistant must complete 15 hours of continuing education during the preceding 24 month period.
2. Be responsible for:
  - a. Maintaining until the next renewal period documentation of attendance at, or participation in, continuing education programs/activities and the program outline and/or objectives; and
  - b. Maintaining documentation of presentation of a continuing education program if the licensee is presenting a program.
3. If applicable, submit an application for waiver of the continuing competency

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requirement pursuant to 172 NAC 114-010.02.

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114-010.01A Acceptable Continuing Education: In order for a continuing education activity to be accepted for renewal or reinstatement of a license, the continuing education activity must relate to occupational therapy and it may focus on research,

treatment, documentation, management, or education.

114-010.01B A continuing education activity, except formal and informal self study, student supervision, and participation in research will be acceptable when:

1. It constitutes a formally organized and planned program of learning which directly contributes to the professional competency of the licensee;
2. The objectives of the continuing education activity relate to the practice of occupational therapy;
3. It has a date, location, course title, number of contact hours, signed certificate of attendance and is open to all licensees;
4. The instructor has specialized experience or training to meet the objectives of the course; and
5. One hour of credit will be awarded for each hour of attendance. Credit will not be awarded for breaks or meals.

114.010.01C The Board does not pre-approve continuing education programs but will accept as continuing education for renewal of a license or reinstatement of a license the following continuing education activities:

1. Programs at State and National association meetings e.g., a meeting of the Nebraska or other state occupational therapy associations and/or the American Occupational Therapy Association. A licensee's documentation must include a certificate of attendance, and a program outline and/or objectives;
2. Workshops, seminars, and/or conferences where the content of the continuing education activity relates to occupational therapy whether the subject is research, treatment, documentation, or education management, which includes monitored videotapes, and inservice programs. A licensee's documentation must include a certificate of attendance, and a program outline and/or objectives;
3. University or college sponsored courses where the content of the course relates to occupational therapy whether the subject is research, treatment, documentation, education, or management. A licensee must provide documentation of successfully completing the course. A licensee's documentation must include an official transcript, and a program outline and/or objectives;

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4. Formal self study where the content of the self study activity relates to occupational therapy whether the subject is research, treatment, documentation, education, or management, e.g. videotapes, internet courses, correspondence courses and/or AOTA self studies. Licensees may complete a maximum of 12 hours of continuing education by self-study each 24 month renewal period. The self-study program must have a testing mechanism. A licensee's documentation must include a certificate of completion, and a program outline and/or objectives;
5. Management courses which pertain to the practice of occupational therapy. An occupational therapist may complete a maximum of ten hours of continuing education utilizing management courses each 24 month renewal period. An occupational therapy assistant may complete a maximum of seven and one half hours of continuing education utilizing management courses each 24 month renewal period. A licensee's documentation must include a certificate of attendance and a program outline and/or objectives;
6. Student supervision by an occupational therapist or occupational therapy assistant. One contact hour is earned for being a primary direct clinical supervisor for each student's entire level II fieldwork experience. Licensee may receive a maximum of two contact hours of continuing education by supervising a student each 24 month renewal period. A licensee's documentation must include a copy of the signature page of the completed fieldwork evaluation form for each supervised student;
7. Participation in research or other scholarly activities that result in professional publication or acceptance for publication that relate to occupational therapy. Four contact hours will be received for each publication. Licensees may earn up to a maximum of ten contact hours of continuing education each 24 month renewal period for authorship, editorship, co-authorship, co-editorship, or all of these, of a juried publication relating to occupational therapy. A licensee's documentation must include a copy of the final publication or verification of publication e.g., title page and table of contents;
8. Informal self study: A licensee may earn up to a maximum of two contact hours of continuing education each 24 month renewal period for completion of the following activities or a combination of such activities:
  - a. Reading related to occupational therapy practice;
  - b. Observing other occupational therapists;
  - c. Viewing videotapes without a supervisor; and
  - d. Quality assurance or peer review studies.

A licensee's documentation when reading or viewing videotapes must include the name of the article, book or videotape and a brief synopsis of

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what was learned. Documentation, when observing other therapists and participating in quality assurance and peer review studies, must include a statement from the licensee explaining what was learned; and

9. Nationally recognized specialty certification examinations: A licensee will earn 20 contact hours of continuing education each 24 month renewal period for successful completion of a nationally recognized specialty

certification examination related to an area of advanced practice in the field of occupational therapy. A licensee's documentation must include a copy of the certification.

114-010.01D One hour credit will be awarded for each hour of scientific presentation by a licensee at workshops, seminars, in-service training, conferences, or guest lectures which relate to the practice of occupational therapy. A licensee may receive continuing education credit for only the initial presentation during a renewal period.

Credit will not be given for subsequent presentations of the same program. A licensee may complete a maximum of four hours of continuing education credit for presentations in a 24 month renewal period. A licensee's documentation must include the presentation outline, course objectives, date, location, time, and type of audience.

114-010.01E Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs where the content does not relate to occupational therapy whether the subject is research, treatment, documentation, education, or management, including but not limited to:

1. Medical terminology courses.
2. Occupational therapy on-the-job training.
3. Occupational therapy orientation programs, including orientation to new policies, procedures, equipment, forms, responsibilities, services, etc.
4. CPR or other related training.

114-010.02 Waiver of Continuing Competency Requirements: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in part or in total, for any two year licensing period when a licensee submits documentation that circumstances beyond his/her control prevented completion of such requirements.

114-010.02A Such circumstances must include situations in which:

1. The licensee holds a Nebraska license but is not residing or practicing his/her profession in Nebraska;
2. 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;

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3. The licensee has submitted proof that he/she was 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 preceding the license renewal date;
4. The licensee was first licensed within the 24 months immediately preceding the license renewal date;
5. The licensee successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to occupational therapy; and
6. Other circumstances beyond the licensee's control prevented completion of the continuing education requirements.

114-010.02B Application for Waiver of Continuing Competency Requirements: Any licensee who seeks a waiver of continuing competency requirements, in part or in total, for any two year licensing period must apply to the Department. The Department, on the recommendation of the Board, may waive continuing competency requirements in part or in total for any two year period. The licensee must submit:

1. A complete application for waiver of continuing competency on a form sent by the Department and referred to as Attachment M or at the option of the applicant, s/he may apply by using an alternate format which s/he prefers. Only applications which are complete will be considered, and the application must be received by the Department on or before August 1 of the year the license is due to be renewed; and
2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing competency requirements pursuant to 172 NAC 114-010.01, item 1 must include the following:
  - a. If the licensee holds a Nebraska license but is not residing or practicing in Nebraska, s/he must mark the appropriate response in the waiver section of Attachment M.
  - b. If the licensee has served in the regular armed forces of the United States during part of the 24 month immediately preceding the license renewal date, s/he must mark the appropriate response in the waiver section of Attachment M and submit official documentation stating the dates of such service.
  - c. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the continuing competency requirements during the 24 months preceding the

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license renewal date, s/he must mark the appropriate response in the waiver section of Attachment M 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 obtain continuing competency requirements during that period.

- d. If the licensee was first licensed within 24 months immediately preceding the license renewal date, s/he must mark the appropriate

response in the waiver section of Attachment M and list the date said license was issued.

- e. If the licensee successfully completed two or more semester hours of formal credit instruction biennially offered by an accredited school or college which contributes to meeting the requirements of an advanced degree in a postgraduate program relating to occupational therapy, s/he must mark the appropriate response in the waiver section of Attachment M and submit official documentation showing completion of such hours.

- f. If the licensee has other circumstances beyond his/her control that prevented him/her from obtaining the required continuing competency requirements s/he must mark the appropriate response in the waiver section of Attachment M and submit documentation verifying such circumstances.

114-010.02C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that circumstances beyond the applicant's control prevented completion of such requirements.

114-010.02C1 When the Department determines to deny an application for waiver of continuing competency requirements, it must send to the applicant by certified mail to the last name and address of record in the Department, a notice setting forth the reason for the denial determination.

114-010.02C1a The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, The Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

114-010.02C1b The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.

114-010.02C2 When the Department determines to grant a waiver of continuing

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competency requirements, the applicant will be notified within 30 days of receipt of the application.

114-010.03 Audit of Continuing Competency Requirements: The Board must select, either during or after renewal, in a random manner, a sample of the licensee's renewal applications for audit of continuing competency requirements. Each licensee will be responsible for maintaining in his/her own personal files such certificates or records of credit from continuing education activities received from continuing education providers. Licensees selected for audit will be required to produce documentation of his/her attendance at those continuing education

activities including program outline and/or course objectives attested to his/her renewal application.

114-010.03A The Department will send to each licensee selected a notice of audit.

114-010.03B When selected for audit, the licensee will provide satisfactory documentation of attendance at or participation in continuing education activities and the program outline and/or objectives attested to on the licensee's affidavit pursuant to 172 NAC 114-010.01 item 2.

114-010.03C The Board reserves the right to audit the continuing education affidavit of any licensee by notifying the licensee and requesting the licensee to produce within 30 days of mailing, documents verifying attendance at continuing education activities.

114-010.03D Continuing education for which no documentation is produced will not be included in the calculation of the total number of continuing education hours.

114-010.03E Failure to comply with the audit may be grounds for non-renewal or revocation of the license.

114-011 SCHEDULE OF FEES: The following fees have been set by the Department.

1. Initial License Fee: By an applicant for a license to practice as an occupational therapist, the fee of \$75 and the Licensee Assistance Program fee of \$1 per year for each year remaining during the current biennial renewal period.

Initial License Fee: By an applicant for a license to practice as an occupational therapy assistant, the fee of \$65 and the Licensee Assistance Program fee of \$1 per year for each year remaining in the biennial renewal period.

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

3. Temporary Permit Fee: By an applicant for a temporary permit or extension of a temporary permit to practice as an occupation therapist or an occupation therapy assistant or the fee of \$25.
4. License Renewal Fee: By an applicant for a renewal on a biennial basis of a license to practice as an occupational therapist, the fee of \$75 and the License Assistance Program fee of \$2.  
  
License Renewal Fee: By an applicant for a renewal on a biennial basis of a license to practice as an occupational therapy assistant, the fee of \$65 and the Licensee Assistance Program fee of \$2.
5. Inactive License Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.
6. 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.
7. Certification of License/Certificate Fee: For issuance of a certification of an occupational therapy or occupational therapist assistant license the fee of \$25. The certification includes information regarding:
  - a. The basis on which a license was issued;
  - b. The date of issuance;
  - c. Whether disciplinary action has been taken against the license; and
  - d. The current status of the license.
8. Verification of License/Permit Fee: For issuance of a verification of a license/permit the fee of \$5. The verification includes written confirmation as to whether a license or permit was valid at the time the request was made.
9. Duplicate License/Permit Fee: For a duplicate of original license or permit document or reissued license or permit, the fee of \$10.
10. Administrative Fee: For a denied license or permit or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the license/permit fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.
11. Reinstatement Late Fee: For reinstatement of a license or certificate for failure to meet renewal requirements:
  - a. Within one year, the fee of \$35 in addition to the renewal fee.
  - b. After one year of revocation, the fee of \$75 in addition to the renewal fee.

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12. Reinstatement Fee: For reinstatement of an Occupational Therapy license following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

114-012 ROLE DELINEATION FOR OCCUPATIONAL THERAPY ASSISTANT: A licensed occupational therapy assistant may perform the following duties while under the supervision of a licensed occupational therapist or while consulting with a licensed occupational therapist:

114-012.01 Explain overall occupational therapy services to client, family, or others who have legitimate interest in the case;

114-012.02 Solicit referrals from appropriate sources or acknowledge referrals received before or after initial screening for the purpose of initiating occupational therapy services by:

1. Responding to a request for service by relaying information or formal referral to the licensed occupational therapist; and
2. Entering cases as appropriate to standards of facility, department and profession when authorized by supervising occupational therapist.

114-012.03 Assess need for, nature of, and estimated time of treatment, determining the needed coordination with other persons involved and documenting the activities by:

1. Screening client to determine client's need for occupational therapy services. This may occur before or after referral by:
  - a. Obtaining and reviewing written information about the client from medical records, school records, therapist records, etc.;
  - b. Interviewing client, family, or others with legitimate interest in the case using a structured guide to obtain general history and information about:
    - (1) Family history, self-care abilities, academic history, vocational history, play history, and leisure interest and experiences; and
  - c. Organizing, summarizing, and recording data collected by occupational therapy assistant and reporting such data to licensed occupational therapist.
2. Observing client while engaged in individual and/or group activity to collect general data and report on independent living/daily living skills, selected sensorimotor skills, cognitive skills, and psychosocial skills;
3. Administering standardized and criterion referenced tests as directed by licensed occupational therapist to collect data on independent living/daily living skills and performance, sensorimotor developmental status, and cognitive skills and performance in the area of orientation;

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4. Summarizing, recording, and reporting own evaluation data to licensed occupational therapist;
5. Assisting with the evaluation of the data collected; and
6. Reporting evaluation data as determined by the licensed occupational therapist to other appropriate persons.

114-012.04 Assist with the identification and documentation of achievable treatment goals to:

1. Develop, improve, and/or restore the performance of necessary functions; compensate for dysfunction, and/or minimize debilitation in the areas of:
  - a. Independent living/daily living skills and performance;
  - b. Sensorimotor skills and performance in gross and fine coordination, strength and endurance, range of motion, and tactile awareness;
  - c. Cognitive skills and performance; and
  - d. Psychosocial skills and performance.

114-012.05 Assist in the identification and documentation of treatment methods by:

1. Selecting occupational therapy techniques, and media, and determining sequence of activities to attain goals in areas designated pursuant to 172 NAC 114-012.04 item 1 by:
  - a. Analyzing activities in reference to client's interests and abilities, major motor processes, complexity, steps involved, and extent to which it can be modified or adapted;
  - b. Adapting techniques/media to meet client need; and
  - c. Discussing occupational therapy treatment plan with client, family, others with legitimate interests and staff.

114-012.06 Assist with implementation or modification of a treatment plan by the use of specific activities or methods which improve or restore performance of necessary functions; compensate for dysfunction; and/or minimize debilitation. The occupational therapy assistant, under the direction of a licensed occupational therapist, will:

1. Engage client in purposeful activity, in conjunction with therapeutic methods, to achieve goals identified in the treatment plan in the following areas:
  - a. Independent living/daily living skills which include physical, psychological, emotional, work, and play;
  - b. Sensorimotor components which include neuromuscular, tactile awareness, and postural balance;
  - c. Cognitive components which include orientation and conceptualization;
  - d. Therapeutic adaptation which includes orthotics, and assistive/adaptive equipment; and

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- e. Prevention which includes energy conservation, joint protection/body mechanics, positioning and coordination of daily living skills.
2. Orient family and others about the activities being utilized in the treatment plan;
3. Provide instruction to client, family, and others with a legitimate interest in how to implement the home program developed by the licensed occupational therapist; and
4. Observe medical and safety precautions.

114-012.07 Assist in determining the need to terminate occupational therapy services when the client has achieved the treatment plan goals and/or has achieved maximum benefit from the services. The following steps should be taken:

1. Discuss need for treatment plan discontinuation with licensed occupational therapist;
2. Assist in preparing occupational therapy discharge plan by recommending adaptations to client's everyday environment;
3. Assist in identifying community resources; and
4. Assist in summarizing and documenting outcome of the occupational therapy treatment plan.

114-012.08 Participate in planning, organizing, and delivery of occupational therapy services by:

1. Planning daily schedule according to assigned workload;
2. Preparing and maintaining work setting, equipment, and supplies;
3. Ordering supplies and equipment according to established procedures;
4. Maintaining records according to Department procedure;
5. Ensuring safety and maintenance of program areas and equipment; and
6. Assisting with compiling and analyzing data of total occupational therapy service.

114-013 REQUIREMENTS FOR CONSULTING WITH OR SUPERVISING AN OCCUPATIONAL THERAPY ASSISTANT: An occupational therapy assistant may assist in the practice of occupational therapy under the supervision of or in consultation with an occupational therapist.

114-013.01 If an occupational therapist is supervising or consulting with an occupational therapy assistant, s/he must meet the following standards:

1. Evaluate each patient prior to treatment by the occupational therapy assistant;
2. Develop a treatment plan outlining which elements have been delegated to the occupational therapy assistant;
3. Monitor patient's progress;
4. Approve any change in the occupational therapy treatment plan;
5. Ensure that the occupational therapy assistant is assigned only to duties and responsibilities for which s/he has been specifically trained and is qualified to perform;

6. Review all documentation written by the occupational therapy assistant;
7. Interpret the results of tests which are administered by the occupational therapy assistant; and
8. Evaluate the treatment plan and determine termination of treatment.

114-013.02 An occupational therapist supervising an occupational therapy assistant must, in addition to the standards pursuant to 172 NAC 114-003.01, provide the following:

1. A minimum of four hours per month of on-site supervision if an occupational therapy assistant has more than one year satisfactory work experience as an occupational therapy assistant; or
2. A minimum of eight hours per month of on-site supervision if an occupational therapy assistant has less than one year satisfactory work experience as an occupational therapy assistant.

114-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a license. Practice without a credential for the purpose of this regulation means practice:

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

114-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, 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. 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.

114-014.02 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 license. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:

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- 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.

114-014.03 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: June 23, 2004  
Approved by Governor: June 24, 2004  
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Forms A through L may be obtained by contacting the Credentialing Division.

Nebraska Department of Health and Human Services  
Regulation and Licensure  
Credentialing Division  
PO Box 94986

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Lincoln NE 68509-4986

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(402)471-2299

<http://www.hhs.state.ne.us/crl/profindex1.htm>

## OCCUPATIONAL THERAPY CODE OF ETHICS

The American Occupational Therapy Association's Code of Ethics is a public statement of the common set of values and principles used to promote and maintain high standards of behavior in occupational therapy. The American Occupational Therapy Association and its members are committed to furthering the ability of individuals, groups, and systems to function within their total environment. To this end, occupational therapy personnel (including all staff and personnel who work and assist in providing occupational therapy services, (e.g., aides, orderlies, secretaries, technicians) have a responsibility to provide services to recipients in any stage of health and illness who are individuals, research participants, institutions and businesses, other professionals and colleagues, students, and to the general public.

The *Occupational Therapy Code of Ethics* is a set of principles that applies to occupational therapy personnel at all levels. These principles to which occupational therapists and occupational therapy assistants aspire are part of a lifelong effort to act in an ethical manner. The various roles of practitioner (occupational therapist and occupational therapy assistant), educator, fieldwork educator, clinical supervisor, manager, administrator, consultant, fieldwork coordinator, faculty program director, researcher/scholar, private practice owner, entrepreneur, and student are assumed.

Any action in violation of the spirit and purpose of this Code shall be considered unethical. To ensure compliance with the Code, the Commission on Standards and Ethics (SEC) establishes and maintains the enforcement procedures. Acceptance of membership in the American Occupational Therapy Association commits members to adherence to the Code of Ethics and its enforcement procedures. The Code of Ethics, Core Values and Attitudes of Occupational Therapy Practice (AOTA, 1993), and the Guidelines to the Occupational Therapy Code of Ethics (AOTA, 1998) are aspirational documents designed to be used together to guide occupational therapy personnel.

### **Principle 1. Occupational therapy personnel shall demonstrate a concern for the well-being of the recipients of their services. (beneficence)**

- A. Occupational therapy personnel shall provide services in a fair and equitable manner. They shall recognize and appreciate the cultural components of economics, geography, race, ethnicity, religious and political factors, marital status, sexual orientation, and disability of all recipients of their services.
- B. Occupational therapy practitioners shall strive to ensure that fees are fair and reasonable and commensurate with services performed. When occupational therapy practitioners set fees, they shall set fees considering institutional, local, state, and federal requirements, and with due regard for the service recipient's ability to pay.
- C. Occupational therapy personnel shall make every effort to advocate for recipients to obtain needed services through available means.

### **Principle 2. Occupational therapy personnel shall take reasonable precautions to avoid imposing or inflicting harm upon the recipient of services or to his or her property. (nonmaleficence)**

- A. Occupational therapy personnel shall maintain relationships that do not exploit the recipient of services sexually, physically, emotionally, financially, socially, or in any other manner.
- B. Occupational therapy practitioners shall avoid relationships or activities that interfere with professional judgment and objectivity.

### **Principle 3. Occupational therapy personnel shall respect the recipient and/or their surrogate(s) as well as the recipient's rights. (autonomy, privacy, confidentiality)**

- A. Occupational therapy practitioners shall collaborate with service recipients or their surrogate(s) in setting goals and priorities throughout the intervention process.

- B. Occupational therapy practitioners shall fully inform the service recipients of the nature, risks, and potential outcomes of any interventions.
- C. Occupational therapy practitioners shall obtain informed consent from participants involved in research activities and indicate that they have fully informed and advised the participants of potential risks and outcomes. Occupational therapy practitioners shall endeavor to ensure that the participant(s) comprehend these risks and outcomes.
- D. Occupational therapy personnel shall respect the individual's right to refuse professional services or involvement in research or educational activities.
- E. Occupational therapy personnel shall protect all privileged confidential forms of written, verbal, and electronic communication gained from educational, practice, research, and investigational activities unless otherwise mandated by local, state, or federal regulations.

**Principle 4. Occupational therapy personnel shall achieve and continually maintain high standards of competence. (duties)**

- A. Occupational therapy practitioners shall hold the appropriate national and state credentials for the services they provide.
- B. Occupational therapy practitioners shall use procedures that conform to the standards of practice and other appropriate AOTA documents relevant to practice.
- C. Occupational therapy practitioners shall take responsibility for maintaining and documenting competence by participating in professional development and educational activities.
- D. Occupational therapy practitioners shall critically examine and keep current with emerging knowledge relevant to their practice so they may perform their duties on the basis of accurate information.
- E. Occupational therapy practitioners shall protect service recipients by ensuring that duties assumed by or assigned to other occupational therapy personnel match credentials, qualifications, experience, and scope of practice.
- F. Occupational therapy practitioners shall provide appropriate supervision to individuals for whom the practitioners have supervisory responsibility in accordance with Association policies, local, state and federal laws, and institutional values.
- G. Occupational therapy practitioners shall refer to or consult with other service providers whenever such a referral or consultation would be helpful to the care of the recipient of service. The referral or consultation process should be done in collaboration with the recipient of service.

**Principle 5. Occupational therapy personnel shall comply with laws and Association policies guiding the profession of occupational therapy. (justice)**

- A. Occupational therapy personnel shall familiarize themselves with and seek to understand and abide by applicable Association policies; local, state, and federal laws; and institutional rules.
- B. Occupational therapy practitioners shall remain abreast of revisions in those laws and Association policies that apply to the profession of occupational therapy and shall inform employers, employees, and colleagues of those changes.
- C. Occupational therapy practitioners shall require those they supervise in occupational therapy-related activities to adhere to the Code of Ethics.
- D. Occupational therapy practitioners shall take reasonable steps to ensure employers are aware of occupational therapy's ethical obligations, as set forth in this Code of Ethics, and of the implications of those obligations for occupational therapy practice, education, and research.
- E. Occupational therapy practitioners shall record and report in an accurate and timely manner all information related to professional activities.

**Principle 6. Occupational therapy personnel shall provide accurate information about occupational therapy services. (veracity)**

- A. Occupational therapy personnel shall accurately represent their credentials, qualifications, education, experience, training, and competence. This is of particular importance for those to whom occupational therapy personnel provide their services or with whom occupational therapy practitioners have a professional relationship.
- B. Occupational therapy personnel shall disclose any professional, personal, financial, business, or volunteer affiliations that may pose a conflict of interest to those with whom they may establish a professional, contractual, or other working relationship.
- C. Occupational therapy personnel shall refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive, or unfair statements or claims.
- D. Occupational therapy practitioners shall accept the responsibility for their professional actions which reduce the public's trust in occupational therapy services and those that perform those services.

**Principle 7. Occupational therapy personnel shall treat colleagues and other professionals with fairness, discretion, and integrity. (fidelity)**

- A. Occupational therapy personnel shall preserve, respect, and safeguard confidential information about colleagues and staff, unless otherwise mandated by national, state, or local laws.
- B. Occupational therapy practitioners shall accurately represent the qualifications, views, contributions, and findings of colleagues.
- C. Occupational therapy personnel shall take adequate measures to discourage, prevent, expose, and correct any breaches of the Code of Ethics and report any breaches of the Code of Ethics to the appropriate authority.
- D. Occupational therapy personnel shall familiarize themselves with established policies and procedures for handling concerns about this Code of Ethics, including familiarity with national, state, local, district, and territorial procedures for handling ethics complaints. These include policies and procedures created by the American Occupational Therapy Association, licensing and regulatory bodies, employers, agencies, certification boards, and other organizations who have jurisdiction over occupational therapy practice.

## References

American Occupational Therapy Association. (1993). Core values and attitudes of occupational therapy practice. *American Journal of Occupational Therapy*, 47, 1085-1086.

American Occupational Therapy Association. (1998). Guidelines to the occupational therapy code of ethics. *American Journal of Occupational Therapy*, 52, 881-884.