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STATUTES PERTAINING TO THE PRACTICE OF ATHLETIC TRAINING

71-1,238. (Operative date July 1, 2004.) Terms, defined. For purposes of sections 71-1,238 to 71-1,242, unless the context otherwise requires:

(1) Athletic trainer means a person who is responsible for the prevention, emergency care, first aid, treatment, and rehabilitation of athletic injuries under guidelines established with a licensed physician and who is licensed to perform the functions set out in section 71-1,240. When athletic training is provided in a hospital outpatient department or clinic or an outpatient-based medical facility, the athletic trainer will perform the functions described in section 71-1,240 with a referral from a licensed physician for athletic training;

(2) Athletic training means the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries utilizing the treatments set out in section 71-1,240;

(3) Athletic injuries means the types of musculoskeletal injury or common illness and conditions which athletic trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation;

(4) Board means the Board of Athletic Training;

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

(6) Practice site means the location where the athletic trainer practices athletic training.

Source: Laws 1986, LB 355, § 1; Laws 1996, LB 1044, § 477; Laws 1999, LB 178, § 2; Laws 1999, LB 828, § 140; Laws 2003, LB 242, § 65. Operative date July 1, 2004.

71-1,239. Repealed. Laws 1999, LB 178, s. 6.

71-1,239.01. (Operative date July 1, 2004.) Licensure requirements; exemption. An individual who accompanies an athletic team or organization from another state or jurisdiction as the athletic trainer is exempt from the licensure requirements of sections 71-1,238 to 71-1,242.

Source: Laws 1999, LB 178, § 4; Laws 2003, LB 242, § 66. Operative date July 1, 2004.

71-1,240. (Operative date July 1, 2004.) Physical modalities; who may perform; treatment authorized. (1) No person shall be authorized to perform the physical modalities set out in subsection (2) of this section on any person unless he or she first obtains a license as an athletic trainer or unless such person is licensed as a physician, osteopathic physician, chiropractor, nurse, physical therapist, or podiatrist. No person shall hold himself or herself out to be an athletic trainer unless licensed under sections 71-1,238 to 71-1,242.

(2) Athletic trainers shall be authorized to use the following physical modalities in the treatment of athletic injuries under guidelines established with a licensed physician:

(a) Application of electrotherapy;

(b) Application of ultrasound;

(c) Use of medical diathermies;

(d) Application of infrared light; and

(e) Application of ultraviolet light.

(3) The application of heat, cold, air, water, or exercise shall not be restricted by sections 71-1,238 to 71-1,242.

Source: Laws 1986, LB 355, § 3; Laws 1989, LB 342, § 27; Laws 1999, LB 178, § 3; Laws 2003, LB 242, § 67. Operative date July 1, 2004.

71-1,241. Applicant for licensure; qualifications; examination; exception. (1) Except as provided in section 71-1,242, an applicant for licensure as an athletic trainer shall at the time of application provide proof to the department that he or she meets one or more of the following qualifications:

(a) Graduation after successful completion of the athletic training curriculum requirements of an accredited college or university approved by the department; or

(b) Graduation with a four-year degree from an accredited college or university and completion of at least two consecutive years, military duty excepted, as a student athletic trainer under the supervision of an athletic trainer approved by the board.

(2) In order to be licensed as an athletic trainer, an applicant shall, in addition to the requirements of subsection (1) of this section, successfully complete an examination approved by the department on the recommendation of the board.

Source: Laws 1986, LB 355, §4. Operative date October 1, 1987.

71-1,242. (Operative date July 1, 2004.) Experienced athletic trainer; license issued; conditions. A license to practice athletic training may be issued to a person who:

(1) Submits an application and the required licensure fee to the department before January 1, 1988;

(2) Meets one of the following criteria: (a) He or she is an athletic trainer on January 1, 1988, or (b) he or she has been an athletic trainer for five of the ten years immediately preceding January 1, 1988; and

(3) Satisfactorily completes the examination for licensure as an athletic trainer as provided in subsection (2) of section 71-1,241.

Source: Laws 1986, LB 355, § 5; Laws 2003, LB 242, § 68. Operative date July 1, 2004.

71-1,243. Repealed. Laws 2003, LB 242, s. 154. (Operative date July 1, 2004.) Athletic Trainer Fund; created; use; investment. The Athletic Trainer Fund is hereby created. All money in the fund shall be used exclusively by the department to carry out the statutory and regulatory duties pertaining to the practice of athletic training. The State Treasurer shall credit to the fund all certification and renewal fees for the practice of athletic training remitted to the State Treasurer by the department pursuant to section 71-162 except such amounts distributed pursuant to section 71-6228. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1986, LB 355, § 6; Laws 1995, LB 7, § 70; Laws 1997, LB 307, § 130; Laws 1999, LB 828, § 141.

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 17 THE PRACTICE OF ATHLETIC TRAINING

17-001 SCOPE AND AUTHORITY: These regulations are intended to implement the laws governing the practice of athletic training and set forth the procedures for licensing pursuant to Neb. Rev. Stat. §§ 71-1,238 to 71-1,242, and the Uniform Licensing Law.

17-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 71-1,238 to 71-1,242, known as the Practice of Athletic Training.

Accredited College or University means a college or university which is accredited by North Central Association of Colleges and Schools or a comparable regional accrediting body or one whose athletic training curriculum is accredited by the Joint Review Committee of the National Athletic Trainers Association, Inc., in collaboration with the National Commission for Health Certifying Agencies or equivalent.

Anghoff Method means a method of determining passing scores based on aggregate information obtained by having judges predict the probability that a hypothetical minimally competent candidate will correctly answer items in a test.
Source: Anghoff, W.H. 1971 Scales, Norms, & Equivalent Scores in R.L. Thorndike (E.d.) *Educational Measurement*, Washington, D.C.: American Council on Education.

Athletic Injuries means the types of musculoskeletal injury or common illness and conditions which athletic trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation.

Athletic Trainer means a person who is responsible for the prevention, emergency care, first-aid, treatment and rehabilitation of athletic injuries under guidelines established with a licensed physician and who is licensed to perform the functions pursuant to Neb. Rev. Stat. § 71-1,240. When athletic training is provided in a hospital outpatient department or clinic or an outpatient-based medical facility, the athletic trainer will perform the functions pursuant to Neb. Rev. Stat. §71-1,240 with a referral from a licensed physician for athletic training.

Athletic Training means the prevention, evaluation, emergency care, first aid, treatment and rehabilitation of athletic injuries utilizing the treatments pursuant to Neb. Rev. Stat. § 71-1,240.

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

Board means the Board of Athletic Training.

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

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

Continuing Education Hours means the number of actual clock hours spent in direct participation in a structured education format as a learner.

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.

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.

Inactive License means the voluntary termination of the right or privilege to practice athletic training. 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 himself/herself as a licensed person and to practice athletic training.

Licensure Examination means the Licensure Examination administered by the Department through Columbia Assessment Services, Inc. or the National Athletic Trainers Association Certification Examination administered by the National Athletic Trainers Association Board of Certification.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 17.

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

Refereed means both the editor and one or more specialists in the field examine all manuscripts.

Student Athletic Trainer means a person who is practicing athletic training under the supervision of an athletic trainer approved by the Board in an educational institution, professional athletic organization, or an amateur athletic organization.

Supervision means daily personal contact between the supervising and the student athletic trainer in an educational institution, professional athletic organization, or an amateur athletic organization. Supervision must be adequate to assure the student performs assignments following written and verbal instructions consistent with standards of the profession, but does not require the presence of the supervising athletic trainer at all times.

Verified means sworn to before a Notary Public.

17-003 REQUIREMENTS FOR LICENSURE: Any person who wishes to practice athletic training after October 1, 1987, must obtain a license. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

17-003.01 License Based On Education: An applicant for a license to practice athletic training on the basis of education must:

1. Have graduated after successful completion of the athletic training curriculum requirements offered by an accredited college or university; or

2. Have graduated with a four-year degree from an accredited college or university and completion of at least two consecutive years student athletic training, military duty excepted. The training must:

   a. Have been completed under the supervision of an athletic trainer who was licensed in Nebraska or who met Nebraska licensure requirements at the time the student athletic training was performed;

   b. Have occurred at an educational institution, professional athletic organization, or an amateur athletic organization where the supervising athletic trainer and student athletic trainer were performing athletic training activities;

   c. Have included the presence of the supervising athletic trainer at the site where the student athletic trainer was performing athletic training activities; and

   d. Have required that the supervising athletic trainer completed regular evaluations of the student athletic trainer's performance to include review of physical modalities to assure the proper techniques were being utilized.

3. Have passed the licensure examination with a passing score as determined by using the Anghoff Method;

4. Have attained at least the age of majority and have good moral character; and

5. Submit to the Department:

a. An official transcript showing graduation from an accredited college or university with completion of the athletic training curriculum requirements; or

b. An official transcript showing graduation from an accredited college or university with a four-year degree and documentation of completion of at least two years

of student athletic training on a form provided by the Department, a copy of which is attached as Attachment A- 3 and incorporated into these regulations; and

c. Official documentation of passing the licensure examination;

d. A complete application, on a form provided by the Department, a copy of which is attached as Attachment A and incorporated into these regulations. Only applications which are complete will be considered;

e. Evidence of having attained at least the age of majority;

f. 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

g. The required license fee.

6. The Department will act within 150 days upon all completed applications for licensure.

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 pursuant to 172 NAC 17-012, or such other action as provided in the statutes and regulations governing the license.

17-003.02 License Based on a License Issued in Another Jurisdiction: An applicant for a license to practice athletic training on the basis of licensure in another jurisdiction must:

1. Provide documentation that the standards regulating the practice of athletic training in the other jurisdiction are equal to those maintained in Nebraska;

2. Provide documentation that his/her license was based on a written examination, the grades given at such examination, and the date the license was issued;

3. Provide documentation of being actively engaged as a licensed athletic trainer or in an accepted residency or graduate program for at least one of the three years immediately preceding application;

4. Provide documentation of being in active and continuous practice of athletic training under license issued by examination in the state, territory, or District of Columbia from which s/he comes for at least one year; and

5. Have attained the age of majority and have good moral character;

6. 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 in these regulations. Only applications which are complete will be considered;

   b. Evidence of having attained at least the age of majority;

   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.

   d. The required licensure fee; and

   e. Have the licensing or certifying agency submit to the Department:

      (1) 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 A- 2, and incorporated into these regulations

      (2) The nature of disciplinary actions, if any, taken against the applicant's license or certificate;

      (3) The date of the applicant's license or certificate;

      (4) The name of the examination on which licensure was based;

(5) The score attained on the examination; and

(6) 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;

7. The Board will review the documents submitted to determine if the applicant's license or certificate issued by the other jurisdiction was based upon standards regulating the profession which are equal to those maintained in athletic training by Nebraska.

8. The Department will act within 150 days upon all completed applications for licenses.

9. 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.

10. 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 17-012, or such other action as provided in the statutes and regulations governing the license.

17-004 EXAMINATION ELIGIBILITY

17-004.01 To be eligible to take the licensure examination administered by the Department, an applicant must meet all the requirements for licensure pursuant to 172 NAC 17-003.01 or 17-003.02. Applicants graduating from programs or completing student athletic trainer requirements within 30 days of the date set for the examination may file their application, accompanied by a statement from one authorized to speak, that the applicant has completed and successfully passed any examinations and in due time will receive a diploma.

17-004.02 To take the examination administered by the Department, an applicant must submit a complete application form, no later than 45 days prior to the scheduled examination date. A copy of the form is attached as Attachment A and incorporated in these regulations.

17-005 EXAMINATION PROCEDURES

17-005.01 The licensure examination administered by the Department will be given on receipt of a request from an applicant who has met the qualifications pursuant to 172 NAC 17-004.01. The date, time and place must be agreed upon by the Department and the applicant.

17-005.02 The Department will notify an applicant in writing of the examination results within 60 days after administration of the examination.

17-006 PROCEDURES FOR RENEWAL OF A LICENSE: All licenses issued by the Department pursuant to 172 NAC 17 will expire on May 1 of each odd-numbered year.

17-006.01 Renewal Process: Any licensee who wishes to renew his/her license must:

1. Meet continuing competency requirements pursuant to 172 NAC 17-010;
2. Pay the renewal fee as pursuant to 172 NAC 17-011;
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 relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the expiration date; and

4. Cause to be submitted to the Department:

   a. The renewal notice;
   b. The renewal fee; and
   c. Attestation of completing 25 hours of continuing education 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:

      (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.

17-006.02 First Notice: At least 30 days before May 1 of each odd-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.

17-006.02A 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 17-011;
6. The number of continuing education hours required for renewal; and
7. The option to place the license on either inactive or lapsed status.

17-006.02B 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 25 hours of continuing education 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).

17-006.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:

   a. The renewal notice with a check in the box marked inactive; and
   b. The fee of $25; or

2. Request that his/her license be placed on lapsed status by submitting to the Department:

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

17-006.02D 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.

17-006.03 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 172 NAC 17-006.02. 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 17-012 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee together with the late fee of $25, and documentation of continuing competency requirements within that time, no order of revocation will be entered; and
5. That upon failure to receive $25 in addition to the regular renewal fee and documentation of continuing competency requirements, the license will be revoked pursuant to 172 NAC 17-007.

17-006.04 The license holder 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 25 hours of continuing education 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).

17-006.05 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 Department:
   a. The renewal notice with a check in the box marked lapsed.

17-006.06 The Department must 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.

17-006.07 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency 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.

17-006.08 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of licensure, 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, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure for the Department.

17-006.09 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 17-006.07 and 006.08 will not apply.

17-006.10 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, Rules of Practice and Procedure for the Department.

17-006.11 An individual who practices after expiration of his/her license, is subject to assessment of an administrative penalty pursuant to 172 NAC 29-014, or such other action as provided in the statutes and regulations governing the license.

17-007 LICENSURE REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department will revoke a license within 30 days of its expiration, when the licensee fails to meet the renewal requirements.

17-007.01 Revocation For Non-Payment of Renewal Fee

17-007.01A When a licensee fails to pay the required renewal fee, to submit documentation of continuing competency, and/or fails to pay an additional fee of $25 and fails to request that his/her license be placed on either inactive or lapsed status, the Department will automatically revoke the license without further notice or a hearing.

17-007.01A1 The revocation notice will specify:

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 or to request that his/her license be placed on inactive or lapsed status;

3. That the Department has revoked the license;

4. That the licensee has a right to appeal the revocation; and

5. That the licensee has a right to reinstatement of the license.

17-007.02 Revocation for Failure to Meet Continuing Competency Requirements

17-007.02A When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirements 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.

17-007.02A1 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.

17-008 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

17-008.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 17-003 or is found to be in violation of any of the provisions pursuant to 172 NAC 17-008.03.

17-008.02 The Department may refuse renewal of a license if the licensee fails to meet the requirements specified in 172 NAC 17-006 or is in violation of any provisions of 172 NAC 17-008.03 or 172 NAC 17-010.03.

17-008.03 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;

2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;

3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 71-172.01;

4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's or licensee's fitness or capacity to practice the profession;

5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession;

6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;

7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;

8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license or certificate by a person not licensed or certified to do so;

9. Having his or 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 athletic training, based upon acts by the applicant, licensee, or certificate holder, or registrant similar to acts pursuant to 172 NAC 17-008. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration or the taking of other disciplinary measures against it by another state or jurisdiction will be conclusive evidence; or

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. Competence: An athletic trainer must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of athletic training includes but is not limited to:

(1) Committing any act which endangers public safety or welfare; or acceptable and prevailing practice in athletic training.

b. Confidentiality: Without the prior written consent of a client, an athletic trainer holds in confidence information obtained from a client, except in those unusual circumstances in which to do so would result in clear danger to the public, or where otherwise required by law.

c. Professional Relationships: An athletic trainer must safeguard the welfare of the public and maintain professional relationships with clients. Commission of any of the following acts or behavior must constitute unprofessional conduct:

(1) Exploiting a client for financial gain or sexual favors;

(2) Performing or agreeing to perform athletic training services that have been requested when the services are known to be contraindicated or unjustified;

(3) Performing or agreeing to perform procedures that have been requested when the procedures are known to be outside of the athletic trainer's scope of practice;

(4) Verbally or physically abusing clients;

(5) Falsification or unauthorized destruction of client records;

(6) Delegating to other personnel those services for which the clinical skills and expertise of an athletic trainer are required;

(7) Encouraging or promoting the practice of athletic training by untrained or unqualified persons;

(8) Filing a false report or record in the practice of athletic training including, but not limited to, collecting a fee;

(9) Providing services or promoting the sale of devices, appliances, or products to a person who cannot reasonably be expected to benefit from the services, devices, appliances, or products;

(10) Individuals must not provide services except in a professional relationship, and must not discriminate in the provision of services to individuals on the basis of sex, race, religion, national origin, sexual orientation, or general health.

d. Sexual Misconduct: An athletic trainer must under no circumstances engage in sexual misconduct. Specifically with regard to clients, the unprofessional conduct includes engaging in sexual harassment of clients. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:

(1) Providing or denying service to a client;
(2) Creating an intimidating, hostile, or offensive environment for the client; or
(3) Providing favorable reports for sexual favors.

e. Other unprofessional conduct includes but is not limited to:

(1) Obtaining any fee for professional services by fraud, deceit or misrepresentation;
(2) The violation of an assurance of compliance pursuant to Neb. Rev. Stat. § 71-171.02 of the Uniform Licensing Law;
(3) Failure to follow policies or procedures implemented in the practice situation to safeguard the public;
(4) Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of an athletic trainer; or
(5) Failure to report suspected cases of child abuse or vulnerable adult abuse pursuant to Neb. Rev. Stat. §§ 28-717 and 28-384.

11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's professional excellence or abilities, in advertisements;

12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;

13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes;

14. Willful or repeated violations of the Uniform Licensing Law or these rules and regulations or the 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 is not licensed, certified, or registered to practice;

16. Practicing the profession of athletic training while his/her license is suspended or in contravention of any limitation placed upon his/her license;

17. Physical or mental illness or physical or mental deterioration or disability which would render the applicant or licensee unqualified to practice his/her profession or occupation;

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; or

19. Failure to file a report pursuant to Neb. Rev. Stat. § 71-168.

17-008.04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend a license, the applicant or license holder 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 Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure for the Department.

17-009 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.

17-009.01 Eligibility

17-009.01A 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.

17-009.01B 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.

17-009.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 17-012; 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.

17-009.02 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 17-003.

17-009.02A 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 17-012;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

17-009.02B 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.

17-009.02C The Department will act within 150 days on all completed applications.

17-009.02D 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 17-009 and 17-009.02B are final.

17-009.03 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.

17-009.04 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.

17-009.04A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 17-012;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

17-009.04B 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.

17-009.04C In either event pursuant to 17-009.04A or 17-009.04B, a notice and the opportunity for hearing will be given to the applicant.

17-009.04D The Department will act within 150 days on all completed applications.

17-009.05 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.

17-009.06 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 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 17-012 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 17-009.06B.

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

17-009.06A The Board's recommendation to the Department may be to:

1. Reinstate the credential;
2. Reinstate the credential with terms, conditions or restrictions; or
3. Deny reinstatement.

17-009.06B 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. Reinstate the credential: An administrative penalty may be assessed pursuant to 172 NAC 17-012 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. Reinstate 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 17-012 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.

17-009.07 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 Nebraska since s/he last held an active credential.

<u>17-009.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements:</u> An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

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

               [a] Official Court Record, which includes charges

and disposition;

[b] Arrest records;

[c] A letter from the petitioner explaining the nature of the conviction;

[d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and

[e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.

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

[1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and

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

(6) Attestation that the continuing competency requirements for renewal have been met.

2. The renewal fee, the late fee of $75 and any other applicable fees.
3. Attestation by the petitioner:
   a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
   b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

(1) If a petitioner has practiced after his/her credential was revoked the Department may assess an administrative penalty pursuant to 172 NAC 17-012 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 17-009-08F.

17-009.08A 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.

17-009.08B 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.

17-009.08C If the Board recommends reinstatement of the credential, no public hearing

need be held on the petition.

17-009.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition will be granted by the Board, if formally requested by the petitioner.

17-009.08D1 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.

17-009.08E 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.

17-009.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

17-009.08F1 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.

17-009.08F2 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.

17-009.08F3 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.

17-009.08F4 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.

17-009.08F5 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.

17-009.09 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;
   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.

17-009.10 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;

[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 17-012 in which case a separate notice and opportunity for hearing will be sent to the petitioner; and

(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 17-009.10G below.

17-009.10A 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 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.

17-009.10B 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.

17-009.10C 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.

17-009.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

17-009.10E 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.

17-009.10E1 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.

17-009.10E2 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.

17-009.10F 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.

17-009.10G 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.

17-009.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director; and

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; and
e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.

5. 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.

17-009.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.

2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.

a. The application must include:

(1) Name of the petitioner; and
(2) Signed statement that the petitioner requests the Director to issue the credential 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.

17-009.10G3 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.

17-009.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

17-009.11A 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.

17-009.11A1 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 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.

17-009.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 17-012;
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.

17-009.11A3 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.

17-009.11A4 In either event pursuant to 17-010.11A2 or 17-010.11A3, a notice and the opportunity for hearing will be given to the applicant.

17-009.11A5 The Department will act within 150 days on all completed applications.

17-009.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

17-009.12A 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.

17-009.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department will assess an administrative penalty pursuant to 172 NAC 17-012.

17-009.13 Credentials Voluntarily Surrendered or Limited Permanently

17-009.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 may not be restored.

17-010 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSURE

17-010.01 General Requirements for Licensure: On or before May 1, 2007, and on or before May 1 of each odd numbered year thereafter, each athletic trainer who is in active practice and in the State of Nebraska must:

1. Have proof of current certification from the National Athletic Trainers Association Board of Certification (NATABOC) or complete 25 hours of continuing education during the preceding 24 month period and hold a current cardiopulmonary (CPR) certificate from a nationally recognized organization that issues such certificates;

2. Submit to the Department the renewal notice pursuant to 172 NAC 17-006.02A with an attestation of completion of 25 hours of continuing education during the preceding 24-month period or certification from the NATABOC; and

3. 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, or a copy of the current NATABOC certification card; and

   b. Maintaining documentation of presentation of a continuing education program if the licensee is presenting a program.

4. If applicable, submit an application for waiver of the continuing competency requirements pursuant to 172 NAC 17-010.02.

17-010.01A 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 athletic training and it must focus on one of the following performance domains: prevention; recognition, evaluation and assessment; immediate care; treatment, rehabilitation and reconditioning; organization and administration; and/or professional development and responsibility.

17-010.01B A continuing education activity, except formal and informal self study 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 athletic training;
3. It has a date, location, course title, number of contact hours, 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.

17.010.01C 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 Nebraska or other state athletic training associations and/or the National Athletic Trainers 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 athletic training where the subject is in one of the following performance domains: prevention; recognition, evaluation and assessment; immediate care; treatment, rehabilitation and reconditioning; organization and administration; and professional development and responsibility. This area 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 athletic training whether the subject is one of the following performance domains: prevention; recognition, evaluation and assessment; immediate care; treatment, rehabilitation and reconditioning; organization and administration; and professional development and responsibility. 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;

4. Formal self study where the content of the self study activity relates to athletic training whether the subject is one of the following performance domains: prevention; recognition, evaluation and assessment; immediate care; treatment, rehabilitation and reconditioning; organization and administration; and/or professional development and responsibility e.g. video tapes, internet courses, and correspondence courses. The self-study program must have a testing mechanism scored by the formal self-study provider. A licensee's documentation must include a certificate of completion, and a program outline and/or objectives. Licensees may complete a maximum of 12 hours of continuing education by formal self-study each 24 month renewal period;

5. Professional development courses which pertain to the practice of athletic training. A licensee's documentation must include a certificate of attendance and a program outline and/or objectives. An athletic trainer may complete a maximum of ten hours of continuing education utilizing

professional development courses each 24 month renewal period;

6. Participation in research or other scholarly activities that result in professional publication or acceptance for publication that relates to athletic training and is intended for an audience of health care professionals.

Licensees may earn up to a maximum of ten contact hours of continuing education each 24 month renewal period for:

a. Primary author of an article in a non-refereed journal. Earn 5 hours per article. Documentation required – a copy of the article;
b. Primary or secondary author of an article in a refereed journal. Earn 10 hours per article. Documentation required – a copy of the article;
c. Primary, secondary or contributing author of a published textbook. Earn 10 hours per book. Documentation required – A copy of the title page;
d. Primary or secondary author of a poster presentation. 5 hours per presentation. Documentation required – Letter of acknowledgement;

e. Primary author of a home study course. Earn 5 hours per course. Documentation required – Letter of approval.

7. 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 articles related to athletic training practice; and
b. Viewing videotapes without a monitor.

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

17-010.01D 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 athletic training. 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.

17-010.01E Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs where the content does not relate to athletic training whether the subject is prevention; recognition, evaluation and assessment; immediate

care; treatment, rehabilitation and reconditioning; organization and administration; or professional development and responsibility, including but not limited to:

1. Medical terminology courses.
2. Athletic training daily activities including:

   a. Activities included with contract employment;
   b. Supervision of student athletic trainers;
   c. Training room responsibilities; and
   d. Observation of other athletic trainers.

3. Athletic training orientation programs, including orientation to new policies, procedures, equipment, forms, responsibilities, services, etc.

17-010.02 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.

17-010.02A 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;

3. The licensee has submitted proof that s/he 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; or

5. Other circumstances beyond the licensee's control prevented completion of the continuing education requirements.

17-010.02B 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 verified complete application for waiver of continuing competency requirements on a form provided 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 that s/he prefers. Only applications which are complete will be considered, and the application must be received by the Department on or before May 1 of the year the license is subject to renewal; and

2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing competency requirements pursuant to 172 NAC 17-010.01, 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 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 the license was issued; or

   e. 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.

17-010.02C 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.

17-010.02C1 When the Department determines to deny an application for waiver of continuing competency requirements, it will 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.

17-010.02C1a 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, Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

17-010.02C1b The Department will issue at the conclusion of the appeal pursuant to 184 NAC 11 of the Rules of Practice and Procedure for the Department, a final order setting forth the results of the appeal.

17-010.02C2 When the Department determines to grant a waiver of continuing competency requirements, the applicant will be notified within 30 days of receipt of the application.

17-010.03 Audit of Continuing Competency: The Board may 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 on his/her audit notice or a copy of his/her current NATABOC certification card.

17-010.03A The Department will send to each licensee selected a notice of audit.

17-010.03B When selected for audit, the licensee must provide satisfactory documentation of attendance at or participation in continuing education activities and the program outline and/or objectives.

17-010.03C The Board reserves the right to audit the continuing education activities 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.

17-010.04D Continuing education for which no documentation is produced will not be included in the calculation of the total number of continuing education hours.

17-010.03E Failure to comply with the audit may be grounds for non-renewal or revocation of the license.

17-011 SCHEDULE OF FEES: The following fees have been set by the Department:

1. Initial License Fee: By an applicant for a license to practice athletic training the fee of $50 and the Licensee Assistance Program fee of $1 for each year remaining during the current 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 Licensee Assistance Program fee of $1.

3. License Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice athletic training $50 plus the Licensee Assistance Program fee of $2.

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

5. 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 charge in addition to the renewal fee.

6. Certification of License Fee: For issuance of a certification of an Athletic Training 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.

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

8. Duplicate License Fee: For a duplicate of original license or reissued license, the fee of $10.

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

10. Reinstatement Late Fee: For reinstatement of an athletic training license, 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.

11. Reinstatement Fee: For reinstatement of an athletic training license following suspension, limitation, or revocation for disciplinary reasons, the fee of $75.

17-012 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a license. Practice without a license 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.

17-012.01 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; or
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.

17-012.02 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:

   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.

17-012.03 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.

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Forms A through M may be obtained by contacting the Credentialing Division.

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