

STATUTE INDEX

PRACTICE OF CHIROPRACTIC

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TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES REGULATION AND LICENSURE - CREDENTIALING DIVISION REGULATIONS

CHAPTER 30 - REGULATIONS DEFINING AND GOVERNING THE USE OF ROUTINE PROCEDURES BY CHIROPRACTORS

001 Scope. A chiropractic practitioner who accepts a patient for any professional reason has a duty and responsibility to perform an appropriate clinical evaluation on that patient for the purpose of assessing the patient's current health status to identify if the patient is a proper subject for chiropractic care. Such a clinical evaluation may involve diagnostic procedures which aid in arriving at a clinical impression. The diagnostic procedures may include urine and blood analysis.

The role of clinical laboratory diagnosis in chiropractic has evolved since the inception of the profession to where currently, laboratory diagnosis courses are taught at all accredited chiropractic colleges.

The chiropractic practitioner, as a portal of entry health care provider, has the responsibility to perform an appropriate clinical examination for the purpose of assessing a patient's current health status to identify if the patient is a proper subject for chiropractic care. The clinical laboratory can provide useful information when the findings from the clinical examination are insufficient to answer the questions at hand. The decision to order a test is made on the assumption that the results will appreciably reduce the uncertainty surrounding a given clinical question and significantly change the pre-test probability that a disorder is present. Clinical laboratory procedures listed in section 003 of these regulations may be ordered or performed by chiropractors. All clinical laboratory tests ordered or performed shall be in concordance with the premises set forth in section 002 of these regulations.

002 Premises.

002.01 The purpose for using clinical laboratory procedures in chiropractic practice is for diagnosis and potential referral.

002.02 The practitioner should select only those clinical laboratories that meet federal accreditation standards.

002.03 The practitioner who performs office laboratory procedures carries out testing in a manner which meets state and/or federal regulations, and is consistent with quality laboratory practice.

002.04 The practitioner makes sure the patient is adequately prepared for laboratory testing by verifying that the patient understands any special instructions to assure adequate specimens necessary to generate valid laboratory results.

002.05 The practitioner assures that in-office laboratory specimens are appropriately collected and preserved.

002.06 Laboratory procedures may be appropriate when the information available from the history and chiropractic examination is considered insufficient to conclude that the patient's presenting condition(s) can be addressed by chiropractic care.

002.07 The practitioner selects a laboratory test(s) appropriate for the purpose of ruling out a specific condition(s) or confirming a strong clinical suspicion by considering the sensitivity and specificity of the test(s) and estimating the likelihood of the condition(s) based on his or her assessment of the available clinical information.

002.08 The practitioner has an understanding of conventional laboratory reference values in order to appropriately interpret laboratory results.

002.09 The practitioner effectively discusses with the patient the purposes, possible complications, and clinical significance of the results of laboratory studies conducted or ordered.

002.10 Clinical laboratory results are recorded in the patient record.

002.11 The practitioner seeks medical assistance when uncertain about appropriate test selection, patient preparation, and/or interpretation of laboratory results.

002.12 The use of profiles which focus on an organ system and/or health problem in a symptomatic patient can be considered a cost-effective

and efficient procedure for generating appropriate laboratory data to help confirm or rule out a diagnosis or clinical impression.

002.13 Novel or non-conventional applications of established laboratory procedures, e.g., the use of cytotoxic testing for food allergies or Reams testing and interpretation of urine, are not used in chiropractic practice as a substitute for conventional applications of laboratory procedures in the clinical decision-making process.

003 Routine Clinical Laboratory Procedures. For the purpose of these regulations, routine clinical laboratory procedures appropriate for chiropractic practice which may be ordered and/or performed by chiropractors shall include the following:

- 003.01 Routine Urinalysis
- 003.02 Complete Blood Count with or without differential
- 003.03 Erythrocyte Sedimentation Rate
- 003.04 Biochemical Profiles including tests listed in this section
- 003.05 Blood Glucose
- 003.06 Serum Urea Nitrogen and Creatinine
- 003.07 Serum Calcium
- 003.08 Serum Inorganic Phosphorus
- 003.09 Serum Total Protein and Albumin
- 003.10 Serum Cholesterol
- 003.11 Serum Alkaline Phosphatase
- 003.12 Serum Prostate-Specific Antigen
- 003.13 Serum Aspartate Aminotransferase
- 003.14 Serum Creatine Kinase
- 003.15 Thyroid Screens including T3, T4, and TSH-HS (sTSH)
- 003.16 Serum Uric Acid
- 003.17 Rheumatoid Factor
- 003.18 Anti-Nuclear Antibody Test
- 003.19 HLA-B27 Test
- 003.20 C-Reactive Protein Test
- 003.21 Serum Potassium Test
- 003.22 Serum Sodium Test
- 003.23 Serum Iron and Total Iron-Binding Capacity Test
- 003.24 Fecal Occult Blood Test
- 003.25 Serum Ferritin Test
- 003.26 Triglycerides

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 29 PRACTICE OF CHIROPRACTIC

29-001 SCOPE AND AUTHORITY: These regulations apply to licensure of chiropractors/ chiropractic physicians as defined by Neb. Rev. Stat. §§ 71-177 to 71-182 and the Uniform Licensing Law.

29-002 DEFINITIONS

Accountability means being responsible and answerable.

1. Chiropractic accountability means being responsible and answerable for decisions and for the action or inaction of self and/or others, and for the resultant client/patient outcomes related to decisions and action or inaction; and
2. Unlicensed person accountability means being responsible and answerable for the action or inaction of self.

Accredited chiropractic program or institution means a school or college which meets the conditions pursuant to Neb. Rev. Stat. § 71-180. The Department will recognize, upon the recommendation of the Board, colleges or schools of chiropractic accredited by the Council on Chiropractic Education or other federally approved chiropractic accrediting agency provided the college or school meets the conditions pursuant to Neb. Rev. Stat. § 71-180.

Act means Neb. Rev. Stat. §§ 71-177 to 71-182, known as the Practice of Chiropractic.

Assist means to give aid and support in the performance of an activity.

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

Board means the Board of Chiropractic.

Chiropractor/Chiropractic Physician means an individual who is currently licensed or otherwise authorized to practice chiropractic pursuant to the Uniform Licensing Law.

Chiropractic service means:

1. Assessing human responses to actual or potential health conditions;
2. Establishing a diagnosis;

3. Establishing a plan of care for the client/patient, including goals, outcomes, and prescriptions for treatments or referrals;
4. Implementing the plan of care through the direct and indirect provision of care; and
5. Evaluating client/patient responses to the plan of care and treatments, and making adjustments to the plan of care based upon the evaluation.

Competence means the state or quality of being capable as a result of having the required knowledge, skills, and ability.

1. Chiropractic competence means the ability of the chiropractor/chiropractic physician to apply interpersonal, technical and decision-making skills at the level of knowledge consistent with the prevailing standard for the chiropractor's/chiropractic physician's current practice role.
2. Unlicensed person competence means the ability of the unlicensed person:
 - a. To utilize effective communication;
 - b. To collect basic objective and subjective data;
 - c. To perform selected non-complex tasks safely, accurately, and according to standard procedures; and
 - d. To seek guidance and direction when appropriate.

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

Complex tasks means those tasks that require chiropractic judgment to safely alter standard procedures pursuant to the needs of the client/patient; or require chiropractic judgment to determine how to proceed from one step to the next; or require the multi-dimensional application of the chiropractic service.

Continuing education means the offering of instruction or information to licensees for the purpose of maintaining skills necessary to the safe and competent practice of chiropractic. The continuing education may be offered under the names of "scientific school", "clinic", "forum", "lecture", "course of study" or "educational seminar".

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

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

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

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

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 29.

Non-complex tasks mean those tasks that can safely be performed according to exact directions, do not require alteration of the standard procedure, and for which the results and client/patient responses are predictable.

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

Protocol means a written document that is created or approved by a chiropractor/chiropractic physician that guides subjective and objective data collection, and defines interventions, treatments, or tasks to be performed based upon the collected data.

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

Stable and/or predictable means a situation where the client/patient's clinical and behavioral status and chiropractic care needs are determined by a chiropractor/chiropractic physician to be non-fluctuating and consistent or where the fluctuations are expected and the interventions are planned, including those clients/patients whose deteriorating condition is expected.

Supervision means the provision of oversight and includes maintaining accountability to determine whether or not chiropractic care is adequate and delivered appropriately. Supervision includes the assessment and evaluation of client/patient condition and responses to the chiropractic plan of care, and evaluation of the competence of persons providing chiropractic care.

1. Direct supervision means that the responsible chiropractor/chiropractic physician is physically present in the clinical area, and is able to assess, evaluate, and respond immediately. Direct supervision does not mean that the responsible chiropractor/chiropractic physician must be in the same room, or "looking-over-the-shoulder" of the persons providing chiropractic care.
2. Indirect supervision means that the responsible chiropractor/chiropractic physician is available through periodic inspection and evaluation and telecommunication for direction, consultation, and collaboration.

Unlicensed person means a person who does not have a license to practice chiropractic and who functions in an assistant or subordinate role to the chiropractor/chiropractic physician.

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Verified means sworn to before a Notary Public.

29-003 REQUIREMENTS FOR ISSUANCE OF LICENSE: Any person, except those listed in Neb. Rev. Stat. § 71-178, who wishes to practice and/or represent himself/herself as a chiropractor/chiropractic physician, must be licensed as a chiropractor/chiropractic physician. The

criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

29-003.01 Licensure Of A Chiropractor/Chiropractic Physician

29-003.01A Procedures For Licensure As A Chiropractor/Chiropractic Physician By Examination: An applicant for a license to practice chiropractic on the basis of an examination must:

1. Have graduated from an accredited chiropractic program or institution;
2. Pass an examination which consists of the following components:
 - a. Parts I, II, and the Physiotherapy section of the examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375 in each section;
 - b. Part III, the Written Clinical Competency Examination given by the National Board of Chiropractic Examiners with a scaled score of at least 375; AND
 - c. The National Board of Chiropractic Examiners Practical examination Part IV with a scaled score of at least 375; OR
 - d. The National Board of Chiropractic Examiners Special Purpose Examination for Chiropractic (SPEC) with a scaled score of at least 375.
3. Have good moral character and have attained at least the age of majority (Neb. Rev. Stat. § 43-2101). All persons under 19 years of age are declared to be minors, but in case any person married under the age of 19 years, his/her minority ends; and
4. Submit to the Department:
 - a. A complete application on a form provided by the Department or on an alternate format which includes the following information:
 - (1) Complete name including middle or maiden name;
 - (2) Mailing address including street, P.O. Box, route, city, state, and zip code;

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- (3) Date of birth (month, day, and year);
 - (4) Place of birth (city, state);
 - (5) Telephone number including area code (optional);
 - (6) Social Security Number;
 - (7) Name of accredited chiropractic program or institution;
 - (8) Date of graduation from chiropractic program or institution;
 - (9) If convicted of a felony or misdemeanor applicant must submit the following:
 - (a) Official courts records relating to the conviction and disposition; and
 - (b) Letter of explanation of conviction;
 - (10) If applicant was denied licensure or the right to take an examination applicant must submit an explanation of the denial;
 - (11) List state, license number, date license issued, and expiration date of license for each state where you have been or are currently licensed;
 - (12) If any disciplinary action was taken against applicant's license by another state applicant must submit a letter of explanation of the disciplinary action; and
 - (13) Attestation by the applicant:
 - (a) That s/he has not practiced in Nebraska prior to the application for a license; or
 - (b) To the actual number of days practiced in Nebraska prior to the application for a license.
 - (14) Sign and date the following statement: I hereby certify that the preceding information is correct to the best of my knowledge and I further certify that I am of good moral character;
- b. An official transcript from an accredited chiropractic program or institution showing the graduation date;
 - c. Official documentation of the scores obtained on the National Board Examination I, II, III, IV, and Physiotherapy pursuant to 172 NAC 29-003.01A, item 2;
 - d. The required licensure fee pursuant to 172 NAC 29-013, item 1; and
 - e. A notarized copy of a birth certificate, marriage license, driver's license or other valid verification of age.
5. The Department will act within 150 days upon all completed applications for licensure.
 6. When a license will expire within 180 days after its initial issuance date, the Department will collect \$32.25 and any other applicable fees, and the license will be valid until the next subsequent renewal date.

7. Administrative Penalty/Other Action: An individual who practices prior to issuance of a license, is subject to assessment of an administrative penalty under 172 NAC 29-014, or such other action as provided in the statutes and regulations governing the license.

29-003.01B Procedures For Licensure As A Chiropractor/Chiropractic Physician Based On A License In Another Jurisdiction: An applicant who is licensed as a chiropractor/chiropractic physician in another jurisdiction must:

1. Meet the requirements pursuant to 172 NAC 29-003.01A;
2. Be currently licensed to practice chiropractic in another state or jurisdiction; and
3. Submit to the Department:
 - a. A complete application on a form provided by the Department or on an alternate format which includes the following information:
 - (1) Complete name including middle or maiden name;
 - (2) Mailing address including street, P.O. Box, route, city, state, and zip code;
 - (3) Date of birth (month, day, and year);
 - (4) Place of birth (city, state);
 - (5) Telephone number including area code (optional);
 - (6) Social Security Number;
 - (7) Name of accredited chiropractic program or institution;
 - (8) Date of graduation from chiropractic program or institution;
 - (9) If convicted of a felony or misdemeanor applicant must submit the following:
 - (a) Official courts records relating to the conviction and disposition; and
 - (b) Letter of explanation of conviction;
 - (10) If applicant has been denied a license or the right to take an examination applicant must submit a letter of explanation;
 - (11) List state, license number, date license issued, and expiration date of license for each state where you have been or are currently licensed;
 - (12) If any disciplinary action was taken against applicant's license by another state applicant must submit a letter of explanation of the disciplinary action;
 - (13) Name of agency issuing initial license;
 - (14) Mailing address of agency including street, P.O. Box, route, city, state, and zip code;
 - (15) Date license was issued;
 - (16) Initial license number;
 - (17) Expiration date of license;

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- (18) Name of examination taken and a statement of the sections/parts/subjects covered by the examination;
 - (19) Name of state where applicant has been in the active and continuous practice of chiropractic for one year of the three years immediately preceding the date of application for Nebraska licensure;
 - (20) Name of facility, address including city, state, and zip code, and the dates applicant was actively engaged in the practice of chiropractic; and
 - (21) Attestation by the applicant:
 - (a) That s/he has not practiced in Nebraska prior to the application for a license; or
 - (b) To the actual number of days practiced in Nebraska prior to the application for a license.
 - (22) Sign and date the following statement: I hereby certify that the preceding information is correct to the best of my knowledge and I further certify that I am of good moral character;
- b. The following documentation from the licensing agency of the jurisdiction where the applicant was initially licensed:
- (1) A certification on a form provided by the Department or on an alternate format which can be a form provided by the licensing agency in the other jurisdiction that the applicant is duly licensed, that his/her license was based on an examination and the scores the applicant received on the examination, that his/her license has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
 - (2) The nature of disciplinary actions, if any, taken against the applicant's license; and
 - (3) A copy of the standards for licensure that were in effect at the time the applicant was originally licensed and the laws and rules relating thereto;
- c. Documentation that the applicant has been actively engaged in the practice of chiropractic or in an accepted residency or graduate training program for at least one of the three years immediately preceding the date of the application for Nebraska licensure;
- d. The required licensure fee pursuant to 172 NAC 29-013, item 2; and
- e. A notarized copy of birth certificate, marriage license, driver's license or other valid verification of age.

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4. The Board will review the documents submitted to determine if the applicant's license issued by the other jurisdiction was based upon requirements which are comparable to those maintained in chiropractic in Nebraska and must recommend to the Department to issue or deny the license.
5. The Department must act within 150 days upon all completed applications for licensure.
6. When a license will expire within 180 days after its initial issuance date, the Department will collect \$32.25 and any other applicable fees, and the license will be valid until the next subsequent renewal date.

29-003.01C 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 29-014, or such other action as provided in the statutes and regulations governing the license.

29-004 PRACTICAL EXAMINATION ELIGIBILITY:

29-004.01 To be eligible to take the National Board of Chiropractic Examiners Part IV practical examination, an applicant must have passed the NBCE Parts I, II, III, and Physiotherapy section given by the National Board of Chiropractic Examiners by the Part IV application deadline.

29-004.02 To apply to take the practical examination, an applicant must contact the National Board of Chiropractic Examiners, 901 54th Avenue, Greeley, Colorado, 80634, 1-(970)356-9100.

29-005 USE OF UNLICENSED PERSONNEL:

29-005.01 The full utilization of chiropractors/chiropractic physicians may require auxiliary client/patient care services provided by persons carrying out tasks, treatments, or interventions to support the provision of chiropractic services as assigned or directed by a licensed chiropractor/chiropractic physician. The scope of assignment or direction may vary depending on the level of judgment required for the task, treatment, or intervention, the knowledge and skills of the unlicensed person, the method and frequency of supervision, and the client/patient's condition, ability and willingness to be involved in the management of his/her own care.

29-005.01A A licensed chiropractor/chiropractic physician retains accountability for the application of the chiropractic service when making the decision to assign or direct chiropractic tasks, treatments, or interventions and for the adequacy of client/patient care and outcomes related to the assignment or direction decision.

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29-005.01B Although unlicensed persons may be used to complement chiropractors/chiropractic physicians in the provision of chiropractic care, these persons cannot be used as a substitute for a licensed chiropractor/chiropractic physician.

29-005.01C A licensed chiropractor/chiropractic physician must assign or direct unlicensed persons in a manner that allows for safe, accountable, and responsible provision of chiropractic care.

29-005.01D The detail and method of communication must be congruent with the experience competency of the unlicensed person and the frequency and method of supervision.

29-005.01E A licensed chiropractor/chiropractic physician may assign or direct unlicensed persons to perform selected tasks, treatments, or interventions that:

1. Reoccur frequently in the care of a client/patient or group of clients/patients;
2. Do not require the unlicensed person to exercise independent chiropractic judgment;
3. Do not require the performance of a complex task or tasks;
4. The results of the task, treatment, or intervention are predictable and the potential risk is minimal; and
5. Utilize a standard and unchanging procedure.

29-005.01F Tasks, treatments, or interventions that may not be assigned or directed include, but are not limited to:

1. Activities, including data collection, problem identification, and outcome evaluation that require independent chiropractic judgment;
2. Coordination and management of care including collaborating, consulting, and referring;
3. Tasks, treatments, or interventions that are complex pursuant to 172 NAC 29-002; or
4. Tasks, treatments, or interventions that require a license or other credential, unless the unlicensed individual has the required license or credential.

29-005.02 An unlicensed person as assigned or directed by a chiropractor/chiropractic physician may contribute to the assessment of the health status of individuals including interactions of individuals with family members or group members by:

1. Collecting basic subjective and objective data from observations and interviews. The data to be collected must be identified by the chiropractor/chiropractic physician; and
2. Reporting and recording the collected data.

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29-005.03 Data collected by an unlicensed person as assigned or directed by a chiropractor/chiropractic physician may be used by the chiropractor/chiropractic physician as part of the establishment of a diagnosis for clients/patients, as part of development of a plan of care for clients/patients, or as part of evaluating responses to chiropractic treatments or interventions.

29-005.04 An unlicensed person as assigned or directed by a chiropractor/chiropractic physician may participate in the implementation of a plan of care for clients/patients by the performance of non-complex tasks, treatments, or interventions. This includes documenting and communicating completion of the tasks, treatments, or interventions and client/patient responses and seeking guidance and direction when appropriate.

29-005.05 A licensed chiropractor/chiropractic physician must communicate to the unlicensed person the conditions of any assignment or direction for which the chiropractor/chiropractic physician is responsible. Communication may be either written or oral or both and must include as appropriate:

1. The specific observations to be monitored, and the expected method of communication to report the observations;
2. The specific task, treatment, or intervention to be done and any client/patient specific instructions and/or limitations;
3. The expected result of the task, treatment, or intervention; and
4. The unexpected results or potential complications of the task, treatment, or intervention, including the method and time lines for communicating this to the chiropractor/chiropractic physician.

29-005.06 A licensed chiropractor/chiropractic physician may provide direction to unlicensed persons or assign tasks, treatments, or interventions to unlicensed persons through either direct or indirect supervision or a combination of both.

29-005.06A Indirect supervision can be provided through protocols and periodic inspection and evaluation in combination with plans of care.

29-005.06A1 Indirect supervision is appropriate when client/patient conditions are stable and/or predictable, and the client/patient is competent to make informed decisions and provide necessary information relative to the tasks, treatments, or interventions.

29-005.06A1a Protocols must:

1. Be written;
2. Identify any specific assessment data to be gathered and reported and the specific parameters for any task(s), treatment(s), or intervention(s) to be performed; and

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3. Identify tasks, treatments, or interventions that may be provided. Tasks, treatments, or interventions may include, but are not limited to:
 - a. Monitoring client/patient's condition by the unlicensed person;
 - b. The direct or provision of chiropractic tasks, treatments, or interventions;
 - c. Referral to another licensed health care provider for service; and/or
 - d. Consultation with the chiropractor/chiropractic physician for specific direction.

29-005.06A2 Indirect supervision by the chiropractor/chiropractic physician must include:

1. An evaluation by the chiropractor/chiropractic physician to determine the adequacy of the protocols to serve the intended purpose; and
2. The availability of the chiropractor/chiropractic physician, or an appropriate substitute, to the unlicensed person by consultation and collaboration. An

appropriate substitute may be another licensed practitioner in an emergency room, the client/patient's primary health care provider, or another specifically designated chiropractor/chiropractic physician.

29-005.06B Direct supervision is required when the client/patient is not competent to make informed decisions or cannot provide necessary information relative to the tasks, treatments, or interventions.

29-006 PROCEDURES FOR RENEWAL OF LICENSE: All initial licenses issued by the Department pursuant to the Act and these regulations expire on August 1 of each even-numbered year.

29-006.01 Renewal Process: Any licensee who wishes to renew his/her license must:

1. Meet continuing competency requirements pursuant to 172 NAC 17-008;
2. Pay the renewal fee pursuant to 172 NAC 17-013;
3. Respond to the following questions:
 - a. Has your license/certificate/registration in any health care profession in another state been revoked, suspended, limited, or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or a felony?

These questions related to the time period since the last renewal of the

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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 36 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.

29-006.02 First Notice: At least 30 days before August 1 of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee's last known address as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

29-006.02A 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 29-013;
6. The number of continuing education hours required for renewal; and
7. The option to place the license on either inactive or lapsed status.

29-006.02B The licensee must apply for renewal by submitting to the Department:

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1. The renewal notice;
2. The renewal fee;
3. The licensee's Social Security Number;
4. Attestation of completing 36 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).

29-006.02C 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.

29-006.02D 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.

29-006.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal pursuant to the requirements of 172 NAC 29-006.01 that specify:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 29-014 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with additional 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 29-007.

29-006.04 The licensee must apply for renewal by submitting to the Department:

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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 36 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).

29-006.05 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.

29-006.06 The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

29-006.07 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.

29-006.08 Failure to meet the continuing education requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of license, unless a waiver of continuing competency requirements is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal, and/or to pay an additional late fee of \$25, the Department will revoke the license after notice and opportunity for hearing. Hearings held before the Department will be conducted pursuant to the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

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29-006.09 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 29-006.07 and 006.08 will not apply.

29-006.10 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, the Rules of Practice and Procedure for the Department.

29-006.11 An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty under 172 NAC 29-014, or such other action as provided in the statutes and regulations governing the credential.

29-007 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.

29-007.01 Revocation For Non-payment Of Renewal Fee

29-007.01A When a licensee fails to pay the required renewal fee, to submit documentation of continuing competency, and/or to pay an additional fee of \$25 and fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department will automatically revoke the license without further notice or hearing and will make proper record of the revocation.

29-007.01A1 The revocation notice will specify:

1. That the licensee was given first and second 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.

29-007.02 Revocation For Failure To Meet Continuing Competency Requirements

29-007.02A When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirements for licensure renewal, the Department will revoke his/her license after notice and opportunity for a hearing.

29-007.02A1 The revocation notice for failure to meet continuing competency requirements must specify:

1. That the licensee was given first and second notice of failure to meet the continuing education requirement and the respective dates of each notice;

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2. That the licensee either failed to renew the license or to have his/her license placed on inactive or lapsed status;
3. That 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. That the licensee has a right to appeal the revocation; and
5. That the licensee has a right to reinstatement of the license.

29-008 CONTINUING COMPETENCY REQUIREMENTS

29-008.01 General Requirements For Licensee: On or before August 1, 1986, and on or before August 1 of each even-numbered year thereafter, each Nebraska-licensed chiropractor/chiropractic physician in active practice within the State of Nebraska must:

1. Complete 36 hours of acceptable continuing education during the preceding 24 month period. No more hours than the total number of acceptable hours offered in Nebraska will be required during this period. An individual will not receive more than eight hours continuing education credit for any one day of attendance. The Board will at least 180 days before August 1, 2002, and August 1, of each even-numbered year thereafter, notify all Nebraska-licensed chiropractor/chiropractic physicians in active practice, of the categories and number of hours in each category each chiropractor/chiropractic physician must obtain from those listed in 172 NAC 29-008.01, item 2.b., 1 through 9, but not exceeding a total of four hours. Four of the remaining 32 continuing education hours must be obtained from those listed in 172 NAC 29-008. 01, item 2.a., and the remaining 28 hours may be obtained from acceptable continuing education programs in these subject areas or other subject areas:
2. The 36 hours must include:
 - a. Four hours related to technical skills in one or a combination of the following categories:
 - (1) Continuing education designed to enhance the practitioner's technical and clinical skill related to x-ray physics, quality control, x-ray production, and interpretation of diagnostic imaging; and
 - (2) Continuing education designed to enhance the practitioner's skill in utilizing chiropractic adjustive techniques.
 - b. Four hours related to practice issues in one or a combination of the following categories as determined by the Board:
 - (1) Continuing education pertaining to HIV/AIDS, infectious diseases and related conditions as they relate to chiropractic;

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- (2) Continuing education designed to enhance the practitioner's awareness of gender sensitivity and sexual harassment issues. These programs are commonly referred to as boundary training;
 - (3) Continuing education related to the chiropractic scope of practice in the State of Nebraska. The programs must include adopted practice guidelines and practice law specific to Nebraska only;
 - (4) Continuing education designed to enhance the practitioner's skill related to ordering laboratory tests and interpreting information from laboratory tests;
 - (5) Continuing education designed to enhance the practitioner's skill in performing physical, neurological, and orthopedic examination procedures as they relate to chiropractic practice;
 - (6) Continuing education related to prevention of fraud, system set-ups, coding, quality control, and standards of practice;
 - (7) Continuing education pertaining to the provision of rehabilitative care as it relates to chiropractic practice;
 - (8) Continuing education related to practice ethics as recognized by state or national associations; and
 - (9) Continuing education related to the use of unlicensed personnel.
3. Be responsible for:
 - a. Maintaining in his/her personal file documentation of attendance, and course outline to include objectives or presentation of approved continuing education programs; and
 - b. A licensee must attend the complete continuing education offering in order to report it for credit. Partial credit may be awarded by the provider of the continuing education event.
 4. If applicable, submit an application for waiver of the education requirement pursuant to 172 NAC 29-008.07.

29-008.02 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 the practice of chiropractic.

29-008.02A A continuing education activity, will be acceptable when:

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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 chiropractic;
3. It has a date, location, course title, number of contact hours, signed certificate of attendance and is open to all licensees;
4. The instructor has specialized experience or training to meet the objectives of the course;
 - a. The presenter of any course on interpreting diagnostic imaging must be:
 - (1) A Diplomate of the American Chiropractic Board of Radiology or its equivalent; or
 - (2) Have five year's experience in teaching diagnostic imaging.
5. It is no more than eight hours in length;
6. One hour of credit will be awarded for each hour of attendance. Credit will not be awarded for breaks or meals;
7. If the program is five hours or longer in duration in any one day, at least an hour must be included in the program for a meal break;
8. No provider will be approved to provide programs on subject area pursuant to 172 NAC 29-008.01, items 1 and 2 for purposes of meeting the mandatory continuing education hours requirement unless the provider has provided at least one continuing education program relating to the practice of chiropractic each year for the previous three years; and
9. All programs must be monitored to assure attendance.

29-008.02B The board does not pre-approve continuing education programs but will accept as continuing education for renewal of a license or reinstatement of a license the following continuing education activities:

1. Programs at State and National Association meetings e.g., a meeting of the Nebraska Chiropractic Physicians Association or other state chiropractic associations and/or the American Chiropractic Association or the International Chiropractic Association (ICA) or similar organizations. A licensee's documentation must include a certificate of attendance and a program outline and/or objectives;
 - a. One hour credit for each hour of attendance, and only the portion of the meeting which meets the definition of continuing education, can be approved for credit.
2. Workshops, seminars, and/or conferences where the content of the continuing education activity relates to the practice of chiropractic. A licensee's

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documentation must include a certificate of attendance, and a program outline and/or objectives;

3. Formal education courses given at accredited institutions of higher education which relate directly to the practice of chiropractic. No more than 15 hours of continuing education credit will be awarded by the Board for each semester hour earned;
4. Programs approved by Providers of Approved Continuing Education (PACE) sponsored by the Federation of Chiropractic Licensing Boards (FCLB);
5. Formal self study where the self study activity content relates to the practice of chiropractic, e.g. videotapes, internet courses, CDs and correspondence courses. Licensees may complete a maximum of 6 hours of continuing education by self-study each 24 month renewal period. The self-study program must have a testing mechanism scored by the provider of the self study activity. The mandatory continuing education hours pursuant to 172 NAC 29-008.01, item 2 may not be obtained by completing formal self study activities.
6. Subject matter acceptable for continuing education credit includes, but is not limited to i.e. acupuncture, philosophy, nutrition.

29-008.03 A licensee who is a presenter of an approved continuing education program may receive credit for the initial presentation of the program during a renewal period. Credit will not be given to the licensee for subsequent presentations of the same program.

29-008.04 Examples of nonacceptable subject matter include, but are not limited to practice promotion.

29-008.05 Waiver Of Continuing Competency Requirements: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in whole or in part, for any two year licensing period when a licensee submits documentation that circumstances beyond his/her control prevented the completion of the requirements.

29-008-05A The circumstances must include situations in which the licensee:

1. Holds a Nebraska license but is not practicing chiropractic in Nebraska; or
2. Has been in the service of the regular armed forces of the United States during any part of the 24 months immediately preceding the license renewal date; or
3. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the 24 months immediately preceding the license renewal date; or

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4. Has been first licensed within 24 months immediately preceding the renewal date.

29-008.05B Application For Waiver Of Continuing Competency: Any licensee who seeks 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 signed complete application for waiver of continuing competency requirements on a form sent by the Department with the renewal notice pursuant to 172 NAC 29-006.02 or 006.03. Only complete applications will be considered, and the application must be received by the Department on or before August 1 of the year the license is due to be renewed;
2. Documentation of the circumstances beyond the licensee's control that prevented completion of continuing competency requirements pursuant to 172 NAC 29-008.05A must include the following:
 - a. If the licensee holds a Nebraska license but is not practicing in Nebraska, s/he must make an appropriate statement in the application;
 - b. If the licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application and submit official documentation stating the dates of the service;
 - c. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the required number of hours of continuing competency requirements during the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application 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; and
 - d. If the licensee was first licensed within the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application and list the date said license was issued.

29-008.05C 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 the requirements.

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29-008.05C1 When the Department determines to deny an application for waiver of continuing competency requirements, it must send to the applicant by certified mail to the last name and address of record in the Department, a notice setting forth the reason for the denial determination.

29-008.05C1a The applicant has 30 days from the date of mailing of the denial notice to make a written request to the Department for a hearing. The hearing must be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act.

29-008.05C1b The Department will issue a final order setting forth the results of the hearing.

29-008.05C2 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.

29-008.06 Audit of Continuing Competency Requirements: The Board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing competency requirements. A minimum of 5% and a maximum of 20% of licensees will be randomly selected for audit. Each licensee must be responsible for maintaining in his/ her personal file documentation of attendance received from continuing education programs. Licensees selected for audit are required to produce satisfactory documentation of his/her attendance at those continuing education programs attested to on his/her renewal application.

29-008.06A The Department will send to each licensee selected for audit a notice of audit.

29-008.06B When selected for audit, the licensee must provide satisfactory documentation of attendance at an approved continuing education program. Within 30 days of the notice of audit, extension of time may be granted at the discretion of the Department.

29-008.06C Failure to provide satisfactory documentation may result in non-renewal of the license.

29-008.06D The licensee selected for audit must submit to the Department validation of meeting the requirements for continuing education as follows:

1. Copies of certificates:
 - a. Fee receipts will not be accepted for validation of attendance;
 - b. Letters documenting attendance from providers; or
 - c. Copies of transcripts from educational institutions.

29-008.06E Validating records will not be returned.

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29-008.06F Failure to notify the Department of a current mailing address will not absolve the licensee from the audit requirement.

29-009 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

29-009.01 The Department may deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 29-003 or is found to be in violation of any of the provisions of 172 NAC 29-009.03.

29-009.02 The Department may refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 29-006, 172 NAC 29-008.08 or 172 NAC 29-009.03.

29-009.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds:

1. Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license or certificate;
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 stability;
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 by a person not licensed to do so;

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9. Having had his/her license or certificate denied, refused renewal, limited, suspended, or revoked or having had the license or certificate disciplined in any other manner pursuant to Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice chiropractic based upon acts by the applicant, licensee, or certificate holder similar to acts described in 172 NAC 29-009. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license or the taking of other disciplinary measures against it by another state or jurisdiction must be conclusive evidence.
10. Unprofessional conduct, which term includes all acts pursuant to Neb. Rev. Stat. § 71-148 and the other acts which include but are not limited to:
 - a. Competence: A chiropractor/chiropractic physician must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of chiropractic includes but is not limited to:
 - (1) Committing any act which endangers patient safety or welfare;
 - (2) Encouraging or promoting chiropractic by untrained or unqualified persons; and
 - (3) Failure or departure from the standards of acceptable and prevailing practice in chiropractic.
 - b. Confidentiality: A chiropractor/chiropractic physician must hold in confidence information obtained from a patient, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law. Failure to do so constitutes unprofessional conduct.
 - c. Professional Relationships: A chiropractor/chiropractic physician must safeguard the welfare of patients and maintain appropriate professional relationships with patients. Commission of any of the following acts or behavior constitutes unprofessional conduct:
 - (1) Improper use of another person for one's own advantage;
 - (2) Failure to decline to carry out chiropractic services that have been requested when the services are known to be contraindicated or unjustified;
 - (3) Failure to decline to carry out procedures that have been requested when the services are known to be outside of the chiropractor's/chiropractic physician's scope of practice;
 - (4) Verbally or physically abusing patients;
 - (5) Falsification or unauthorized destruction of patient records;
 - (6) Attempting to provide diagnostic or treatment information to patient(s) that is beyond the chiropractor's/chiropractic physician's level of training and expertise;

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- (7) Delegating to other personnel those patient related services when the clinical skills and expertise of a chiropractor/chiropractic physician is required;
 - (8) Over or under utilization of laboratory and x-ray procedures, and the devices or nutritional products that are in the best interest of the patient;
 - (9) Failure to assure that the patient possesses enough information to enable intelligent choices in regard to proposed chiropractic treatment;
 - (10) Failure to terminate a professional relationship when it becomes clear that the patient is not benefiting from further care or treatment; and
 - (11) Failure to consult and seek the talents of other health care professionals when the consultation would benefit the patient or when the patient expressed a desire for the consultation.
- d. Sexual Harassment: A chiropractor/chiropractic physician must not under any circumstances engage in sexual harassment of patients or co-workers. Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature as a condition of:
- (1) The provision or denial of chiropractic care to a patient; and
 - (2) The provision or denial of employment or employment advances to a co-worker.
- e. Advertising, Publicity and Solicitation
- (1) A chiropractor/chiropractic physician must not make a false or misleading communication about the chiropractor/chiropractic physician or the chiropractor's/chiropractic physician's services. A communication is false or misleading if:
 - (a) The chiropractor/chiropractic physician charges a fee for any chiropractic service conducted within 24 hours after performing a chiropractic service that was advertised as being free;
 - (b) The chiropractor/chiropractic physician obtains any fee for professional services by fraud, deceit, or misrepresentation;
 - (c) The chiropractor/chiropractic physician bills an insurance company or third-party payee for a service that has been offered through an advertisement to a prospective patient as free without explaining to the prospective patient which services are billable and which are free;

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- (d) It contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
 - (e) It is likely to create an unjustified expectation about the results the chiropractor/chiropractic physician can achieve, or states or implies that the chiropractor/chiropractic physician can achieve results by means that violate these regulations or the Uniform Licensing Law;
 - (f) It compares the chiropractor's/chiropractic physician's services with other chiropractor's/chiropractic physician's services, unless the comparison can be factually substantiated.
- (2) Subject to the requirements of these regulations a chiropractor/chiropractic physician may advertise services through public media, such as a telephone directory, newspaper, magazine or other periodical, radio or television, or through written communication not involving personal contact. A copy or recording of an advertisement or written communication will be kept for one year after its dissemination along with a record of when and where it was used.
- (3) A chiropractor/chiropractic physician cannot enter into an agreement for, charge, or collect a fee for professional employment obtained in violation of this rule.
- (4) A chiropractor/chiropractic physician must not accept professional employment when s/he knows or reasonably should know that the person who seeks his/her services does so as a result of conduct by any person prohibited pursuant to 179 NAC 29-009.03, item 10c.
- (5) Any written communication from a chiropractor/chiropractic physician or his/her agent that is prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member must disclose how the chiropractor/chiropractic physician or his/her agent obtained the information prompting the communication. The disclosure required by this regulation must be specific enough to help the recipient understand the extent of the chiropractor's/chiropractic physician's knowledge regarding the recipient's particular situation.
- (6) A chiropractor/chiropractic physician cannot compensate or give anything of value to representatives of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item.
- (7) A chiropractor/chiropractic physician or any person designated, contracted, or paid by a chiropractor/chiropractic physician cannot solicit professional

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employment as a chiropractor/chiropractic physician for himself/herself,

his/her partner or associate, either through direct contact or through a written communication to, a potential patient, if:

- (a) The chiropractor/chiropractic physician knows or reasonably should know that the physical, emotional, or mental state of the person is such that the person could not exercise reasonable judgment in employing a chiropractor/chiropractic physician;
 - (b) The person has made known to the chiropractic/chiropractic physician or his/her agent a desire not to receive communications from the chiropractor/chiropractic physician; or
 - (c) The communication involves coercion, duress, fraud, misrepresentation, overreaching, harassment, intimidation, or undue influence.
- (8) A chiropractor/chiropractic physician who has given in-person unasked for advice to a potential patient that s/he should obtain chiropractic services or other health care services cannot accept employment resulting from that advice, except:
- (a) If the potential patient is a close friend, relative, former patient, or one whom the chiropractor/chiropractic physician reasonably believes to be a patient; or
 - (b) Under auspices of a public or charitable chiropractic services organization.
- (9) If a chiropractor/chiropractic physician advertises a fee for a service, the chiropractor/chiropractic physician must render that service for no more than the fee advertised.
- (10) Unless otherwise specified, if a chiropractor/chiropractic physician advertises fee information, the chiropractor/chiropractic physician is bound by any representation made therein for a period of not less than 30 days after such advertisement.
- (11) On the front of each envelope in which an advertisement of a chiropractor/chiropractic physician is mailed or delivered on or the front of each post card, if the advertisement is printed on a post card, must be the words: "This is an advertisement." These words must be printed in type size at least as large as the print of the address and must be located in a conspicuous place on the envelope or card.

- (12) An advertisement or written communication of a chiropractor/chiropractic physician seeking professional employment by a specific potential patient

cannot reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the potential patient's medical problem.

- f. When using the term chiropractic physician or any other lawfully recognized terminology on a sign, announcement, stationery, or advertisement, it is unprofessional conduct to fail to also place on such sign, announcement, stationery or advertisement the term chiropractor;
 - g. Violating an assurance of compliance entered into pursuant to Neb. Rev. Stat. § 71-171.02;
 - h. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
 - i. Failure to safeguard the patient's dignity and right to privacy;
 - j. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;
 - k. Practicing chiropractic in this state without a current Nebraska license; and
 - l. Failure to comply with a patient's authorization to provide records pursuant to Neb. Rev. Stat. §§ 71-8401 to 71-8407.
 - m. Failure to affix the written or oral words "solicitation" or "advertisement" on a statement that attempts to procure patients. These words must be printed in type size at least as large as the print of the statement.
11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning the 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;

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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 to practice;
16. Practicing the profession of chiropractic while his/her license is suspended or in contravention of any limitation placed upon his/her license;
17. Physical or mental illness or physical or mental deterioration or disability which would render the applicant unqualified to practice the particular profession or occupation;
18. Refusal of an applicant for a license or of a licensee to submit to a physical or mental examination requested 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;
19. Failure to file a report pursuant to Neb. Rev. Stat. § 71-16; or
20. Failure to comply with Neb. Rev. Stat. §§ 71-604, 71-605, and 71-606 relating to the signing of birth and death certificates.

29-009.04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend the license of any licensee, the applicant or licensee must be given an opportunity for a hearing before the Department and must 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, the Rules of Practice and Procedure of the Department.

29-010 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

29-010.01 Eligibility

29-010.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;

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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.

29-010.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

29-010.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 29-014; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

29-010.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 29-003.

29-010.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 29-014;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

29-010.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

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

29-010.02C The Department will act within 150 days on all completed applications.

29-010.02D 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. §§

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84-901 to 84-920 before any of the actions pursuant to 172 NAC 29-010.02A and 29-010.02B are final.

29-010.03 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.

29-010.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

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

29-010.04A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 29-014;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

29-010.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

29-010.04C In either event pursuant to 29-010.04A or 29-010.04B, a notice and the opportunity for hearing will be given to the applicant.

29-010.04D The Department will act within 150 days on all completed applications.

29-010.05 Requirements for Reinstatement Within One Year Following Revocation for

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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.

29-010.06 Procedures for Reinstatement Within One Year Following Revocation for Failure

to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

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

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- [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.
- (6) 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 29-014 in which case a notice and opportunity for hearing will be sent to the applicant.
- (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 29- 010.06B below.

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

29-010.06A 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.

29-010.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstate the credential: An Administrative Penalty may be assessed pursuant to 172 NAC 29-014 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. 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

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Administrative Penalty may be assessed pursuant to 172 NAC 29-014 if warranted; or

- b. Deny reinstatement: In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

29-010.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement 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.

29-010.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each

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- 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.

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- (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 29-014 in which case a notice and opportunity for hearing will be sent to the petitioner; and/or
- (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 29-010.08F.

29-010.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

29-010.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

29-010.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

29-010.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

29-010.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

29-010.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

29-010.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

29-010.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential; or
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure;

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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.

29-010.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

29-010.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

29-010.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

29-010.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

29-010.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified

recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and

- b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75; and
3. If the credential was revoked or suspended, attest:

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- 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.

29-010.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

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

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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 29-014 in which case a separate notice and opportunity for hearing will be sent to the petitioner.

(2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 29-010.10G.

29-010.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148;

2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;

3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or

4. Require the petitioner to complete additional education.

29-010.10B The petition to recommend reinstatement will be considered at the next

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meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

29-010.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

29-010.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

29-010.10E 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.

29-010.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

29-010.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

29-010.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

29-010.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

29-010.10G1 If the Board recommends reinstatement of the credential:

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

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- 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; and
 - 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.

29-010.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

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

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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.

29-010.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

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29-010.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

29-010.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

29-010.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

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

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- 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.

29-010.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 29-014;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or
- 4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

29-010.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request for restoration of the credential; or
- 3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

29-010.11A4 In either event pursuant to 29-010.11A2 or 29-010.11A3, a notice and the opportunity for hearing will be given to the applicant.

29-010.11A5 The Department will act within 150 days on all completed applications.

29-010.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

29-010.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

29-010.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 29-014.

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29-010.13 Credentials Voluntarily Surrendered or Limited Permanently

29-010.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

29-011 RESERVED

29-012 RESERVED

29-013 SCHEDULE OF FEES: The following fees have been set by the Department to be paid as a condition for issuance of licensure:

1. Initial License Fee: By an applicant for a license to practice chiropractic, the fee of \$125, 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 date, the fee of \$31.25 and the Licensee Assistance Program fee of \$1.
3. License Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice chiropractic, the fee of \$150 and the Licensee Assistance Program fee of \$2;
4. Inactive License Status Fee: By a licensee to place his/her license on inactive status, the fee of \$25;
5. Renewal Late Fee: By an applicant for a renewal on a biennial basis of 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, to be paid in addition to the renewal fee;
6. Certification of License Fee: For issuance of a certification of a chiropractic 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: By an applicant for a duplicate original license or a reissued license, the fee of \$10;

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9. Administrative Fee: For a denied license or withdrawn application, the administrative fee of \$25 will be retained by the Department except if the licensing fee is less than \$25, the fee will be forfeited.
10. Reinstatement Late Fee: For reinstatement of a chiropractic 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 a chiropractic license following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

29-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a license. Practice without a 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.

29-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

29-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a license. To assess such penalty, the Department will:

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

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

2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

29-014.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

Approved by Attorney General: June 23, 2004
Approved by Governor: June 24, 2004
Filed with Secretary of State: June 24, 2004
Effective Date: June 29, 2004

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

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

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Lincoln NE 68509-4986

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172 NAC

(402)471-2299

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

STATUTES PERTAINING TO THE PRACTICE OF CHIROPRACTIC

71-177. Chiropractic practice, defined. For purposes of the Uniform Licensing Law, the practice of chiropractic is defined as being one or a combination of the following, without the use of drugs or surgery: (1) The diagnosis and analysis of the living human body for the purpose of detecting ailments, disorders, and disease by the use of diagnostic X-ray, physical and clinical examination, and routine procedures including urine analysis; or (2) the science and art of treating human ailments, disorders, and disease by locating and removing any interference with the transmission and expression of nerve energy in the human body by chiropractic adjustment, chiropractic physiotherapy, and the use of exercise, nutrition, dietary guidance, and colonic irrigation. The use of X-rays beyond the axial skeleton shall be solely for diagnostic purposes and shall not expand the practice of chiropractic to include the treatment of human ailments, disorders, and disease not permitted when the use of X-rays was limited to the axial skeleton.

Source: Laws 1927, c. 167, §76, p. 474; C.S. 1929, §71-1101; Laws 1983, LB 142, §1; Laws 1990, LB 348, §1. Effective date July 10, 1990.

71-178. Chiropractic; practice; persons excepted. Section 71-177 shall not be construed to include the following classes of persons: (1) Licensed physicians and surgeons and licensed osteopathic physicians who are exclusively engaged in the practice of their respective professions; (2) physicians of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state; (3) chiropractors licensed in another state when incidentally called into this state in consultation with a chiropractor licensed in this state; or (4) students enrolled in an accredited college of Chiropractic when the services performed are a part of the course of study and are under the direct supervision of a licensed chiropractor.

Source: Laws 1927, c. 167, §77, p. 474; C.S. 1929, §71-1102; Laws 1989, LB 342, §14; Laws 1990, LB 1064, §12. Effective date April 8, 1990.

71-179. Chiropractic; license; qualifications required. Every applicant for a license to practice chiropractic shall (1) present proof of graduation from an accredited college of chiropractic and (2) pass an examination which consists of the following components: (a) Parts I and II of the examination given by the National Board of Chiropractic Examiners; (b) the written Clinical Competency Test given by the National Board of Chiropractic Examiners; and (c) the practical examination given by the Board of Chiropractic.

Source: Laws 1927, c. 167, § 78, p. 475; C.S.1929, § 71-1103; R.S.1943, § 71-179; Laws 1965, c. 413, § 1, p. 1321; Laws 1975, LB 92, § 2; Laws 1988, LB 1100, § 29; Laws 1999, LB 828, § 65. Effective date August 28, 1999.

71-179.01. Chiropractic; license; renewal; continuing competency requirements. Each Nebraska-licensed chiropractor in active practice within the State of Nebraska shall, on or before August 1 of every even-numbered year, complete continuing competency activities as required by the Board of Chiropractic pursuant to section 71-161.09 as a prerequisite for the licensee's next subsequent license renewal.

Source: Laws 1959, c. 319, § 1, p. 1168; Laws 1985, LB 250, § 7; Laws 1986, LB 926, § 40; Laws 1999, LB 828, § 66; Laws 2002, LB 1021, § 16. Operative date January 1, 2003.

71-180. Accredited college of chiropractic, defined. An accredited college of chiropractic within the meaning of the Uniform Licensing Law shall be (1) one which is recognized by the department upon the recommendation of the Board of Chiropractic, (2) a legally chartered college of chiropractic requiring for admission a diploma from an accredited high school or its equivalent and, beginning with students entering a college of chiropractic on or after January 1, 1974, at least two years credit from an accredited college or university of this or some other state, which requirement shall be regularly published in each prospectus or catalog issued by such institution, (3) one which conducts a clinic for patients in which its students are required to regularly participate in the care and adjustment of patients, (4) one giving instruction in anatomy, orthopedics, physiology, embryology, chemistry, pathology, health ecology, bacteriology, symptomatology, histology, spinal analysis, diagnosis, roentgenology, neurology, and principles and practice of chiropractic, and (5) one requiring an actual attendance for four college years totaling not less than four thousand hours.

Source: Laws 1927, c. 167, § 79, p. 475; C.S.1929, § 71-1104; R.S.1943, § 71-180; Laws 1945, c. 163, § 1, p. 528; Laws 1973, LB 115, § 1; Laws 1996, LB 1044, § 405; Laws 1999, LB 828, § 67. Effective date August 28, 1999.

71-180.01 to 71-180.05. Repealed. Laws 1988, LB 1100, §185.

71-181. Reciprocal licensing; when authorized. The Department of Health and Human Services Regulation and Licensure may in its discretion dispense with the examination in case of a chiropractor duly authorized to practice chiropractic in any other state, territory, or the District of Columbia, maintaining standards established by law or by duly authorized rules, equal to those of Nebraska, and who presents a certificate or license based on written examination issued by the proper authority of such other state, territory, or the District of Columbia.

Source: Laws 1927, c. 167, §80, p. 475; C.S. 1929, §71-1105; R.S. 1943, §71-181; Laws 1996, LB 1044, §406.
Operative date January 1, 1997.

71-182. Chiropractic practitioner; powers and duties. Chiropractic practitioners shall observe and be subject to all state and municipal laws and regulations relative to the control of contagious and infectious diseases, and all matters pertaining to public health. They shall report to the proper health officers the same as other practitioners. Chiropractic practitioners may sign death certificates. When performing acupuncture, a chiropractor licensed under the Uniform Licensing Law shall provide the same standard of care to patients as that provided by a person licensed under the Uniform Licensing Law to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery when such person performs acupuncture.

Source: Laws 1927, c. 167, § 81, p. 475; C.S.1929, § 71-1106; R.S.1943, § 71-182; Laws 1945, c. 164, § 1, p. 529; Laws 2001, LB 270, § 15. Effective date September 1, 2001.