

EFFECTIVE
DECEMBER 21, 2013

DEPARTMENT OF HEALTH
AND HUMAN SERVICES

172 NAC 88

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 88 LICENSURE OF MEDICINE AND SURGERY
AND OSTEOPATHIC MEDICINE AND SURGERY

88-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of medicine and surgery under Neb. Rev. Stat. §§ 38-2001 to 38-2062 and the Uniform Credentialing Act (UCA).

88-002 DEFINITIONS

Accredited hospital means a hospital accredited by the Department, with the recommendation of the Board.

Accredited School or College of Medicine means a United States or Canadian school or college which conforms to the standards required for accreditation by the Liaison Committee on Medical Education (LCME) sponsored by the Association of American Medical Colleges and the American Medical Association and is approved by the Department, upon recommendation of the Board.

Accredited School or College of Osteopathic Medicine means a school or college which conforms to the standards required for accreditation by the American Osteopathic Association Bureau of Professional Education and is approved by the Department, upon recommendation of the Board.

Active addiction means current physical or psychological dependence on alcohol or a substance, which develops following the use of alcohol or a substance on a periodic or continuing basis.

Alcohol or substance abuse means a maladaptive pattern of alcohol or substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring at any time during the same 12-month period:

1. Recurrent alcohol or substance use resulting in a failure to fulfill major role obligations at work, school, or home;
2. Recurrent alcohol or substance use in situations in which it is physically hazardous;
3. Recurrent legal problems related to alcohol or substance use; or

4. Continued alcohol or substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the alcohol or substance use.

Approved Graduate Medical Education means a program of graduate medical education, approved by the Board, that is accredited by the Accreditation Council for Graduate Medical Education (ACGME), the Royal College of Physicians and Surgeons of Canada, the College of Family Physicians of Canada, or has been deemed by the Board as comparable to the requirements of ACGME.

Approved Graduate Osteopathic Medical Education means a program of graduate medical education approved by the Council on Postdoctoral Training (COPT) served in the United States, or has been deemed by the Board as comparable to the requirements of COPT.

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

Board means the Board Medicine and Surgery.

Complete application means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

Comprehensive Osteopathic Medical Variable Purpose Examination for the United States of America (COMVEX-USA) means the examination made available by the National Board of Osteopathic Medical Examiners.

Confidential information means information protected as privileged under applicable law.

Consumer means a person receiving health or health-related services or environmental services and includes a patient, client, resident, customer, or person with a similar designation.

Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere or non vult contendere made to a formal criminal charge, or a judicial finding of guilt irrespective of the pronouncement of judgment or the suspension thereof, and includes instances in which the imposition or the execution of sentence is suspended following a judicial finding of guilt and the defendant is placed on probation.

Credential means a license, certificate, or registration.

Department means the Division of Public Health of the Department of Health and Human Services.

Dependence means a maladaptive pattern of alcohol or substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following occurring at any time in the same 12-month period:

1. Tolerance as defined by either of the following:
 - a. A need for markedly increased amounts of alcohol or the substance to achieve intoxication or desired effect; or
 - b. A markedly diminished effect with continued use of the same amount of alcohol or the substance;
2. Withdrawal as manifested by either of the following:
 - a. The characteristic withdrawal syndrome for alcohol or the substance as referred to in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association; or
 - b. Alcohol or the same substance or a closely related substance is taken to relieve or avoid withdrawal symptoms;
3. Alcohol or the substance is often taken in larger amounts or over a longer period than was intended;
4. A persistent desire or unsuccessful efforts to cut down or control alcohol or substance use;
5. A great deal of time is spent in activities necessary to obtain alcohol or the substance, to use alcohol or the substance; or to recover from the effects of use of alcohol or the substance;
6. Important social, occupational, or recreational activities are given up or reduced because of alcohol or substance use; or
7. Alcohol or substance use continues despite knowledge of having had a persistent or recurrent physical or psychological problem that was likely to have been caused or exacerbated by alcohol or the substance.

Director means the Director of Public Health of the Division of Public Health or his/her designee.

Federation Credentials Verification Service (FCVS) means the permanent, central repository of core credential documents that have been verified through primary sources administered by the Federation of State Medical Boards.

Fellowship means a program of supervised educational training, approved by the Board, in a medical specialty or subspecialty at an accredited hospital, an accredited school or college of medicine, or an accredited school or college of osteopathic medicine, that follows the completion of undergraduate medical education.

FLEX Weighted Average means the formula used to determine the examination score for the FLEX examination administered prior to 1985. Such formula is as follows: Day 1 score multiplied by 1; Day 2 score multiplied by 2; Day 3 score multiplied by 3. The total of these three scores is divided by 6 which equals the FLEX Weighted Average.

Foreign Medical Graduate means a graduate of a school or college of medicine not in the United States or Canada (foreign medical school) which is recognized by the appropriate government agency in the country where the medical school is located.

Health Professional Shortage Area means a geographic area designated a health profession shortage area by the Nebraska Rural Health Advisory Commission.

Inactive credential means a credential which the credential holder has voluntarily placed on

inactive status and by which action has terminated the right to practice or represent him/herself as having an active credential.

License means an authorization issued by the Department to an individual to engage in a profession or to a business to provide services which would otherwise be unlawful in this state in the absence of such authorization.

Licensing examination means:

1. The Federation Licensing Examination (FLEX);
2. The National Board of Medical Examiners (NBME);
3. The United States Medical Licensing Examination (USMLE);
4. The National Board of Osteopathic Medical Examiners (NBOME);
5. The Comprehensive Osteopathic Medical Licensure Examination of the United States (COMLEX-USA);
6. The Licentiate of the Medical Council of Canada (LMCC); and,
7. Any of the following combinations of examinations:

Any three sequence examination combination of parts 1, 2 and 3 of the USMLE, NBME, NBOME, or COMLEX.

FLEX Component 1 can be combined with NBME Part III, USMLE Step 3, NBOME Part III or COMLEX Level 3.

FLEX Component 2 can be combined with NBME Parts I and II, USMLE Steps 1 and 2, NBOME Parts I and II or COMLEX Levels 1 and 2.

An applicant who fails to pass any part of the licensing examination within four attempts must complete one additional year of post graduate medical education at an accredited school or college of medicine or osteopathic medicine.

All parts of the licensing examination must be successfully completed within ten years. An applicant who fails to successfully complete the licensing examination within the time allowed must retake that part of the examination which was not completed within the time allowed.

If a FLEX examination is taken, a FLEX weighted average of 75 must be attained if examined prior to January 1, 1985. A grade of 75 is required in each component administered after January 1, 1985.

Military service means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

Pattern of incompetent or negligent conduct means a continued course of incompetent or

negligent conduct in performing the duties of the profession.

Physician Locum Tenens means a permit that may be issued by the Department, with the recommendation of the Board, to an individual who holds an active license to practice medicine and surgery or osteopathic medicine and surgery in another state when circumstances indicate a need for the issuance of a physician locum tenens in the State of Nebraska. A physician locum tenens permit may be issued for a period not to exceed 90 days in any 12-month period.

Profession means any profession or occupation named in subsection (1) or (2) of Neb. Rev. Stat. § 38-121.

Refresher course means a planned program of supervised educational training, approved by the Board, that provides a review of medical knowledge and skills for the purpose of the enhancement of clinical competency.

Served in the regular armed forces has the same meaning as “military service” in these regulations.

Special Purpose Examination (SPEX) means the examination made available by the Federation of State Medical Boards of the United States, Inc.

State Examination means an examination administered by a state, territory of the United States, or District of Columbia for purposes of determining eligibility for initial licensure of physicians or osteopathic physicians and surgeons.

Temporary educational permit means a permit to practice medicine and surgery, osteopathic medicine and surgery, or any of their allied specialties in graduate medical education, a fellowship, or a refresher course.

Visiting faculty permit means a permit for a physician qualified by virtue of previous medical training and experience to teach students of medicine, to conduct research, or both.

88-003 INITIAL LICENSE TO PRACTICE MEDICINE AND SURGERY

88-003.01 Qualifications

88-003.01A To receive a license to practice medicine and surgery by examination on the basis of education received at an accredited school or college of medicine, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;

3. Education: Have graduated from an accredited school or college of medicine;
4. Graduate Medical Education: Have successfully completed one year of approved graduate medical education;
5. Examination: Have successfully passed a licensing examination; and
6. Experience: Meet one of the following within the three years immediately preceding the application for licensure:
 - a. Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - b. Have had at least one year of approved graduate medical education; or
 - c. Have completed continuing medical education approved by the Board; or
 - d. Have completed a refresher course in medicine and surgery approved by the Board; or
 - e. Have completed the special purposes examination approved by the Board.

88-003.01B To receive a license to practice medicine and surgery by examination as a Foreign Medical Graduate, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Be a Foreign Medical Graduate;
4. Graduate Medical Education: Have successfully completed three years of approved graduate medical education;
5. Examination: Have successfully passed a licensing examination; and
6. Experience: Meet one of the following within the three years immediately preceding the application for licensure:
 - a. Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - b. Have had at least one year of approved graduate medical education; or
 - c. Have completed continuing medical education approved by the Board; or
 - d. Have completed a refresher course in medicine and surgery approved by the Board; or
 - e. Have completed the special purpose examination

- approved by the Board.
7. Equivalency: Meet one of the following:
 - a. Have been issued a permanent certificate by the Educational Commission on Foreign Medical Graduates (ECFMG); or
 - b. Have successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Citizenship and Immigration Services; or
 - c. Have successfully completed a program of American medical training designated as the Fifth Pathway and passed the ECFMG Examination.

88-003.01C To receive a license to practice medicine and surgery on the basis of a license in another state or territory of the United States of America or the District of Columbia, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
3. Education: Have graduated from an accredited school or college of medicine or be a Foreign Medical Graduate;
4. Graduate Medical Education: Have successfully completed one year of approved graduate medical education if applicant is a graduate of an accredited school or college of medicine, or have successfully completed three years of approved graduate medical education if applicant is a Foreign Medical Graduate;
5. Examination: Have successfully passed a State Examination, approved by the Board, and have been duly licensed to practice medicine and surgery in that state or territory of the United States of America or in the District of Columbia based upon the State Examination;
6. Equivalency: If applicant is a Foreign Medical Graduate, meet one of the following:
 - a. Have been issued a permanent certificate by the Educational Commission on Foreign Medical Graduates (ECFMG); or
 - b. Have successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Citizenship and Immigration Services; or
 - c. Have successfully completed a program of American

- medical training designated as the Fifth Pathway and passed the ECFMG Examination; and
7. Experience: Meet one of the following within the three years immediately preceding the application for licensure:
 - a. Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - b. Have had at least one year of approved graduate medical education; or
 - c. Have completed continuing medical education approved by the Board; or
 - d. Have completed a refresher course in medicine and surgery approved by the Board; or
 - e. Have completed the special purpose examination approved by the Board.

88-003.01D Geographically Limited License: The Department, with the recommendation of the Board, may waive any requirement for more than one year of approved graduate medical education if the applicant has served at least one year of approved graduate medical education and the following conditions are met:

1. The applicant meets all other qualifications for a license to practice medicine and surgery;
2. The applicant submits satisfactory proof that the issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of this state; and
3. The applicant submits proof that s/he will enter into the practice of medicine in a health profession shortage area designated as such by the Nebraska Rural Health Advisory Commission immediately upon obtaining a license to practice medicine and surgery based upon a waiver of the requirement for more than one year of graduate medical education.
4. A license issued on the basis of such a waiver shall be subject to the limitation that the licensee continue in practice in the health profession shortage area and such other limitations, if any, deemed appropriate under the circumstances by the Director, with the recommendation of the Board, which may include, but shall not be limited to, supervision by a medical practitioner, training, education, and scope of practice. After two years of practice under a limited license issued on the basis of a waiver of the requirement of more than one year of graduate medical education, a licensee may apply to the Department for removal of the limitations. The Director, with the recommendation of the Board, may grant or deny such application or may continue the license with limitations.

5. In addition to any other grounds for disciplinary action against the license contained in the Uniform Credentialing Act, the Department may take disciplinary action against a license granted on the basis of a waiver of the requirement of more than one year of graduate medical education for violation of the limitations on the license.

88-003.02 Application: To apply for a license to practice medicine and surgery, the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
 - b. Indicate the licensing examination or reciprocity examination which you successfully completed.
 - c. Education: name and location of high school completed and date completed, name and location of pre-medical college and date completed, name and location of medical college and date of graduation; if the medical college is not accredited indicate the ECFMG number.
 - d. Graduate Medical Education: name and location of institution for each graduate medical education program attended, name of the internship, residency or fellowship, and beginning and ending date of each program.
 - e. Experience: Indicate that, within the three years immediately preceding the application for licensure, you meet one of the following criteria:

- (1) Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - (2) Have had at least one year of approved graduate medical education; or
 - (3) Have completed at least 75 hours of category 1 continuing medical education as approved by the ACCME or AOA; or
 - (4) Have completed a refresher course in medicine and surgery approved by the Board; or
 - (5) Have completed the special purposes examination approved by the Board.
- f. List in chronological order all of applicant's medical activities for the last ten years, or since graduation from medical college if less than ten years ago.
- g. Indicate whether or not applicant holds a Federal Controlled Substances Registration. If yes, list the number and expiration date.
- h. Practice Before Application: The applicant must state:
- (1) That s/he has not practiced medicine and surgery in Nebraska before submitting the application; or
 - (2) If s/he has practiced medicine and surgery in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice;
- i. The applicant must also provide information related to the following, as requested on the application of the Department:
- (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and

- receipt of warnings;
 - (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- j. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth,
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services or health-related services, in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken

- against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition sent directly to the Department from the other jurisdiction;
- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to 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;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;

- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number (“A#”). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
 - e. Official documentation showing successful completion of an accredited school or college of medicine sent directly to the Department from the school or college; or, official documentation showing that applicant is a Foreign Medical Graduate sent directly to the Department from the school or college;
 - f. Official documentation of meeting the graduate medical education qualifications sent directly to the Department from the graduate medical education program;
 - g. Official documentation of scores obtained on all Licensing or State Examinations that applicant has completed sent directly to the Department from the official repository for the scores;
 - h. Official documentation of meeting the equivalency qualifications sent directly to the Department from the equivalency organization;
 - i. If applying based on a license in another state, territory of the United States, or the District of Columbia, a certification of license from the state where applicant passed a State Examination and has been duly licensed to practice medicine and surgery.
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
4. A completed profile from the Federation Credentials Verification Service may be submitted. The profile will be reviewed to determine if its components meet the documentation requirements for evidence of age, education, graduate medical education, examination, and equivalency (if applicable).

88-003.02A Criminal Background Checks: An applicant must:

- 1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
- 2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked “Reason Fingerprinted”, print “Credential”;
- 3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and

4. Forward the completed fingerprint cards and payment for the criminal background check as specified in 172 NAC 88-003.02A1 to the Nebraska State Patrol, CID Division, P.O. Box 94907, Lincoln, NE 68509.

88-003.02A1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department.

88-003.02A2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

88-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

88-003.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 88-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

88-003.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

88-003.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-003.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

88-003.08 Address Information: Each credential holder must notify the Department of

any change to the address of record.

88-003.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

88-004 INITIAL LICENSE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY

88-004.01 Qualifications

88-004.01A To obtain a license to practice osteopathic medicine and surgery by examination an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education: Have graduated from an accredited school or college of osteopathic medicine;
4. Graduate Medical Education: Have successfully completed one year approved graduate medical education or approved graduate osteopathic medical education;
5. Examination: Have successfully passed a licensing examination;
6. Experience: Meet one of the following within the three years immediately preceding the application for licensure:
 - a. Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - b. Have had at least one year of approved graduate medical education or approved graduate osteopathic medical education; or
 - c. Have completed continuing medical education approved by the Board; or
 - d. Have completed a refresher course in medicine and surgery approved by the Board; or
 - e. Have completed the special purposes examination approved by the Board.

88-004.01B To receive a license to practice osteopathic medicine and surgery on the basis of a license in another state or territory of the United States or the District of Columbia, an applicant must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good

- character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
 3. Education: Have graduated from an accredited school or college of osteopathic medicine; and
 4. Graduate Medical Education: Have successfully completed one year of approved graduate medical education or approved graduate osteopathic medical education;
 5. Examination: Have successfully passed a State Examination, approved by the Board, and have been duly licensed to practice osteopathic medicine and surgery in that state or territory of the United States of America or in the District of Columbia based upon the State Examination;
 6. Experience: Meet one of the following within the three years immediately preceding the application for licensure:
 - a. Have been in the active practice of the profession of osteopathic medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - b. Have had at least one year of approved osteopathic graduate medical education or approved graduate medical education; or
 - c. Have completed continuing medical education approved by the Board; or
 - d. Have completed a refresher course in osteopathic medicine and surgery or medicine and surgery approved by the Board; or
 - e. Have completed the special purpose examination approved by the Board.

88-004.02 Application: To apply for a license to practice osteopathic medicine and surgery the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address);

- and city, state, and zip code, or country information);
- (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);
 - (7) The applicant's e-mail address (optional);
 - (8) The applicant's fax number (optional);
- b. Indicate all the licensing examination(s) or state examination(s) which applicant completed.
 - c. Education: name and location of high school completed and date completed, name and location of pre-medical college and date completed, name and location of osteopathic medical college and date of graduation.
 - d. Graduate Medical Education: name and location of institution for each osteopathic graduate medical education or graduate medical education program attended, name of the internship, residency or fellowship, and beginning and ending dates of each program.
 - e. Experience: Indicate that, within the three years immediately preceding the application for licensure, applicant meets one of the following criteria:
 - (1) Has been in the active practice of the profession of medicine and surgery or osteopathic medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - (2) Has had at least one year of approved graduate osteopathic medical education or graduate medical education; or
 - (3) Has completed continuing medical education approved by the Board; or
 - (4) Has completed a refresher course in osteopathic medicine and surgery or medicine and surgery approved by the Board; or
 - (5) Has completed the special purpose examination approved by the Board.
 - f. List in chronological order all of applicant's osteopathic medical activities for the last ten years, or since graduation from osteopathic medical college if less than ten years ago.
 - g. Indicate whether or not applicant holds a Federal Controlled Substances Registration. If yes, list the number and expiration date.
 - h. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced medicine and surgery/osteopathic medicine and surgery in Nebraska before submitting the application; or

- (2) If s/he has practiced medicine and surgery/osteopathic medicine and surgery in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice.
- i. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or

- federal controlled substances registration; and
- (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
 - j. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
 2. Documentation: The applicant must submit the following documentation with the application:
 - a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services or health-related services, in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition sent directly to the Department from the other jurisdiction;
 - (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to 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;
- (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
- (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Official documentation showing successful completion of an accredited school or college of osteopathic medicine sent directly to the Department from the school or college;
- f. Official documentation of meeting the osteopathic graduate medical education or graduate medical education qualifications sent directly to the Department from the graduate education program;
- g. Official documentation of scores obtained on each examination sent directly to the Department from the official repository for the scores;
- h. If applying based on a license in another state, territory of the United States, or the District of Columbia, a certification of license from the state where applicant passed a State Examination and

- has been duly licensed to practice medicine and surgery; and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.
 4. A completed profile from the Federation Credentials Verification Service may be submitted. The profile will be reviewed to determine if its components meet the documentation requirements for evidence of age, education, graduate medical education, examination, and equivalency (if applicable).

88-004.02A Criminal Background Checks: An applicant must:

1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked "Reason Fingerprinted", print "Credential";
3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and
4. Forward the completed fingerprint cards and payment for the criminal background check as specified in 172 NAC 88-004.02A1 to the Nebraska State Patrol, CID Division, P.O. Box 94907, Lincoln, NE 68509.

88-004.02A1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department.

88-004.02A2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

88-004.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

88-004.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a

credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 88-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

88-004.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

88-004.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-004.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

88-004.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

88-004.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

88-005 TEMPORARY EDUCATIONAL PERMITS: The Department may issue a temporary educational permit to an individual to practice medicine and surgery while serving in a program of graduate medical education, a fellowship, or a refresher course conducted by an accredited hospital or school or college of medicine or by another authorized provider in the State of Nebraska.

The holder of a temporary educational permit must not engage in the practice of medicine and surgery outside of the assigned graduate medical education program, fellowship or refresher course conducted by an accredited hospital or school or college of medicine or by another authorized provider in the State of Nebraska.

88-005.01 Qualifications: To receive a temporary educational permit, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;

2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act;
3. Education: Have graduated from an accredited school or college of medicine or, an accredited school or college of osteopathic medicine, or be a Foreign Medical Graduate;
4. Equivalency: If applicant is a Foreign Medical Graduate, meet one of the following:
 - a. Have been issued a permanent certificate by the Educational Commission on Foreign Medical Graduates (ECFMG); or
 - b. Have successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Citizenship and Immigration Services; or
 - c. Have successfully completed a program of American medical training designated as the Fifth Pathway and passed the ECFMG Examination; and
5. Have been accepted into an approved graduate medical education program, fellowship or refresher course conducted by an accredited hospital or school or college of medicine or by another authorized provider in the State of Nebraska.

88-005.02 Application: To apply for a temporary educational permit the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A*"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (6) The applicant's telephone number including area code (optional);

- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);
- b. Education: name and location of high school completed and date completed, name and location of pre-medical college and date completed, name and location of medical or osteopathic medical college and date of graduation; if the medical college is not accredited indicate the ECFMG number.
- c. Graduate Medical Education: name and location of institution for each graduate medical/osteopathic medicine education program attended, name of the internship, residency or fellowship, and beginning and ending dates of each program.
- d. List in chronological order all of applicant's medical/osteopathic medicine activities for the last ten years, or since graduation from medical college if less than ten years ago.
- e. Indicate whether or not applicant holds a Federal Controlled Substances Registration. If yes, list the number and expiration date.
- f. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced medicine and surgery or osteopathic medicine and surgery in Nebraska before submitting the application; or
 - (2) If s/he has practiced medicine and surgery or osteopathic medicine and surgery in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice.
- g. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request

- for voluntary resignation, probation, counseling, and receipt of warnings;
- (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- h. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services or health-related services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed.
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the

- disciplinary action(s), including charges and disposition sent directly to the Department from the other jurisdiction;
- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to 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;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
- (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired

- Temporary I-551 stamp bearing the same name as the passport;
- (13) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Official documentation showing successful completion of an accredited school or college of medicine or osteopathic medicine; or, official documentation showing that applicant is a Foreign Medical Graduate;
 - f. Official documentation of meeting the equivalency qualifications sent directly to the Department from the equivalency organization, if applicant is a Foreign Medical Graduate; and
 - g. Official Documentation that an accredited hospital or school or college of medicine or another authorized provider in the State of Nebraska has requested the issuance of a temporary educational permit to the applicant for him/her to participate in its graduate medical education program, fellowship, or refresher course; and
- 3. Fee: The applicant must submit the required permit fee along with the application and all required documentation.
 - 4. A completed profile from the Federation Credentials Verification Service may be submitted. The profile will be reviewed to determine if its components meet the documentation requirements for evidence of age, education, graduate medical education, examination, and equivalency (if applicable).

88-005.02A Criminal Background Check: An applicant for a temporary educational permit shall have 90 days from the issuance of the permit to comply with the requirements for the criminal background check and shall have his/her permit suspended after such 90-day period if the criminal background check is not complete or revoked if the criminal background check reveals that the applicant was not qualified for the permit. An applicant must:

- 1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
- 2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked "Reason Fingerprinted", print "Credential";
- 3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and
- 4. Forward the completed fingerprint cards and payment for the

EFFECTIVE
DECEMBER 21, 2013

DEPARTMENT OF HEALTH
AND HUMAN SERVICES

172 NAC 88

criminal background check as specified in 172 NAC 88-005.02A1 to the Nebraska State Patrol, CID Division, P.O. Box 94907, Lincoln, NE 68509.

88-005.02A1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department.

88-005.02A2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

88-005.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

88-005.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 88-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

88-005.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

88-005.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-005.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

88-005.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

88-005.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

88-006 VISITING FACULTY PERMITS: The Department, with the recommendation of the Board, may issue a Visiting Faculty Permit to an individual to serve as a member of the faculty of an accredited school or college of medicine in the State of Nebraska, to teach students of medicine, to conduct research, or both.

The holder of a Visiting Faculty Permit must not engage in the practice of medicine and surgery outside of his/her assignment(s) as a member of the faculty of an accredited school or college of medicine in the State of Nebraska to teach students of medicine, to conduct research, or both.

88-006.01 Qualifications: To receive a visiting faculty permit, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Have graduated from an accredited school or college of medicine, an accredited school or college of osteopathic medicine or be a Foreign Medical Graduate;
4. Have been accepted as a member of the faculty of an accredited school or college of medicine in Nebraska, to teach students of medicine, to conduct research, or both.

88-006.02 Application: To apply for a visiting faculty permit the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Date of birth (month, day, and year);
 - (3) Place of birth (city and state or country if not born in the United States);
 - (4) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);

- (5) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);
- b. Indicate whether or not applicant holds a Federal Controlled Substances Registration. If yes, list the number and expiration date.
- c. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced medicine and surgery or osteopathic medicine and surgery in Nebraska before submitting the application; or
 - (2) If s/he has practiced medicine and surgery/osteopathic medicine and surgery in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice.
- d. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited

- to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
- (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration; and
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- e. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license that provides date of birth;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services or health-related services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed. The applicant must have the licensing agency submit to the Department a certification of his/her credential;
 - (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition sent directly to the Department from the other jurisdiction;

- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to 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;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department.
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;

- (13) A document showing an Alien Registration Number (“A#”). An Employment Authorization Card/Document is not acceptable; or
- (14) A Form I-94 (Arrival-Departure Record);
- e. Official documentation showing successful completion of an accredited school or college of medicine or osteopathic medicine sent directly to the Department from the school or college; or, official documentation showing that applicant is a Foreign Medical Graduate sent directly to the Department from the school or college;
- f. Official Documentation requesting the issuance of a visiting faculty permit to the applicant to be a member of the faculty at an accredited school or college of medicine in the State of Nebraska to teach students of medicine, conduct research or both. Such documentation shall include:
 - 1) Outline of faculty duties to be performed pursuant to the permit;
 - 2) Attestation by the Dean of the College of Medicine that applicant has been accepted as a member of the faculty at the medical school to perform duties as outlined on the application and that said duties are to teach students of medicine, to conduct research or both.
- 3. Fee: The applicant must submit the required permit fee along with the application and all required documentation.
- 4. A completed profile from the Federation Credentials Verification Service may be submitted. The profile will be reviewed to determine if its components meet the documentation requirements for evidence of age, education, graduate medical education, examination, and equivalency (if applicable).

88-006.02A Criminal Background Checks: An applicant must:

- 1. Obtain two fingerprint cards from the Department or from any State Patrol office or law enforcement agency;
- 2. Print the following information on the fingerprint cards:
 - a. Name;
 - b. Address;
 - c. Social Security Number;
 - d. Date of birth;
 - e. Place of birth;
 - f. Any physical identifiers; and
 - g. In the space on the fingerprint cards marked “Reason Fingerprinted”, print “Credential”;
- 3. Report to any State Patrol office, law enforcement agency, or other entity that offers the service of fingerprinting to provide their fingerprints on the fingerprint cards; and
- 4. Forward the completed fingerprint cards and payment for the criminal background check as specified in 172 NAC 88-006.02A1

EFFECTIVE
DECEMBER 21, 2013

DEPARTMENT OF HEALTH
AND HUMAN SERVICES

172 NAC 88

to the Nebraska State Patrol, CID Division, P.O. Box 94907,
Lincoln, NE 68509.

88-006.02A1 Payment for criminal background checks is the responsibility of the individual and can be made by personal check, money order or cashier's check, payable to the Nebraska State Patrol. The fee for criminal background checks is established by the Nebraska State Patrol and can be found on the web site of the Department.

88-006.02A2 Submission by the individual of completed fingerprint cards and the appropriate payment to the Nebraska State Patrol authorizes the release of the results of the criminal background check to the Department. The results will be forwarded by the Nebraska State Patrol directly to the Department for consideration with the application for licensure.

88-006.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

88-006.04 Denial of Initial Credential: If an applicant for an initial credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 88-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure.

88-006.05 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

88-006.06 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-006.07 Confidentiality: Social Security Numbers obtained under this section are not public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

88-006.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

88-006.09 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

88-007 PHYSICIAN LOCUM TENENS PERMIT: A physician locum tenens permit may be issued by the Department, with the recommendation of the Board, to an individual who holds an active license to practice medicine and surgery or osteopathic medicine and surgery in another state when circumstances indicate a need for the issuance of a physician locum tenens permit in the State of Nebraska.

A physician locum tenens permit may be issued for a period not to exceed 90 days in any 12-month period.

88-007.01 Circumstances for which a physician locum tenens permit may be issued:

1. The unavailability of a Nebraska physician due to vacation, sickness, hospitalization or other similar leaves of absence;
2. A public health emergency in the State of Nebraska such as one arising from incidents of widespread disease, natural or manmade disaster or similar causes;
3. There is a need for a physician as requested by an accredited hospital in a health professional shortage area.

88-007.02 To receive a physician locum tenens permit, an individual must meet the following qualifications:

1. Age and Good Character: Be at least 19 years old and of good character;
2. Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Hold an active license to practice medicine and surgery or osteopathic medicine and surgery in another state.

88-007.03 Application: To apply for a physician locum tenens permit the individual must submit a complete application to the Department. A complete application includes all required documentation, the required fee, and a written application. The applicant may obtain an application from the Department or construct an application that must contain the following information:

1. Written Application:
 - a. Personal Information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;

- (2) Date of birth (month, day, and year);
- (3) Place of birth (city and state or country if not born in the United States);
- (4) Mailing address (street, rural route, or post office address,; city; state; and zip code or other country information)
- (5) The applicant's:
 - (a) Social Security Number;
 - (b) Alien Registration Number ("A#"); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
- (6) The applicant's telephone number including area code (optional);
- (7) The applicant's e-mail address (optional);
- (8) The applicant's fax number (optional);
- b. Indicate applicant's total years of medical practice;
- c. Education: name and location of medical college and date of graduation; if the medical college is not accredited indicate the ECFMG number.
- d. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced medicine and surgery/osteopathic medicine and surgery in Nebraska before submitting the application; or
 - (2) If s/he has practiced medicine and surgery/osteopathic medicine and surgery in Nebraska before submitting the application, the actual number of days practiced in Nebraska before submitting the application for a credential and the name and location of practice.
- e. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during

- medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
- (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
- f. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her; and
 - (2) All statements on the application are true and complete.
2. Documentation: The applicant must submit the following documentation with the application:
- a. Evidence of age, such as:
 - (1) Driver's license;
 - (2) Birth certificate;
 - (3) Marriage license;
 - (4) Transcript that provides date of birth;
 - (5) U.S. State identification card;
 - (6) Military identification; or
 - (7) Other similar documentation;
 - b. Evidence of:
 - (1) Other Credential: If the applicant holds a credential to provide health services or health-related services, in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed.

- (2) Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition sent directly to the Department from the other jurisdiction;
- (3) Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
- (4) Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (a) A list of any misdemeanor or felony convictions;
 - (b) A copy of the court record, which includes charges and disposition;
 - (c) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address behaviors/actions related to 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;
 - (e) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (f) Any other information as requested by the Board/Department;
- c. Evidence that the applicant is a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
- d. Evidence of citizenship, lawful presence, and/or immigration status may include a copy of:
 - (1) A U.S. Passport (unexpired or expired);
 - (2) A birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal;
 - (3) An American Indian Card (I-872);
 - (4) A Certificate of Naturalization (N-550 or N-570);
 - (5) A Certificate of Citizenship (N-560 or N-561);
 - (6) Certification of Report of Birth (DS-1350);
 - (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
 - (8) Certification of Birth Abroad (FS-545 or DS-1350);
 - (9) A United States Citizen Identification Card (I-197 or I-179);
 - (10) A Northern Mariana Card (I-873);
 - (11) A Green Card, otherwise known as a Permanent Resident

- Card (Form I-551), both front and back of the card;
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (13) A document showing an Alien Registration Number (“A#”). An Employment Authorization Card/Document is not acceptable; or
 - (14) A Form I-94 (Arrival-Departure Record);
- e. Certification of license from a state in which applicant holds an active license. If there are any disciplinary actions, copies of those actions are to be included;
 - f. Official Documentation requesting the issuance of a physician locum tenens permit for the purpose of replacing a physician who will be unavailable for a specific period of time, or to provide physician services in a health professional shortage area for a specific period of time.
- 3. Fee: The applicant must submit the required permit fee along with the application and all required documentation.
 - 4. A completed profile from the Federation Credentials Verification Service may be submitted. The profile will be reviewed to determine if its components meet the documentation requirements for evidence of age, education, graduate medical education, examination, and equivalency (if applicable).

88-007.04 Department Review: The Department will act within 150 days upon all completed applications for credentialing.

88-007.05 Denial of Credential: If an applicant for an credential does not meet all of the requirements for a credential, the Department will deny issuance of a credential. If the applicant is found to have committed any act which would be grounds for denial of a credential as listed in 172 NAC 88-010, the Department may deny issuance of a credential. To deny a credential, the Department will notify the applicant in writing of the denial and the reasons for the determination. The denial will become final 30 days after mailing the notice unless the applicant, within that 30-day period, requests a hearing in writing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Department’s Rules of Practice and Procedure.

88-007.06 Withdrawn Applications: An applicant for a credential who withdraws his/her application or whose application is rejected by the Department prior to administration of the examination will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.

88-007.07 Practice Prior to Credential: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-007.08 Confidentiality: Social Security Numbers obtained under this section are not

public information but may be shared by the Department for administrative purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to this information.

88-007.09 Address Information: Each credential holder must notify the Department of any change to the address of record.

88-007.10 Non-English Documents: Any documents written in a language other than English must be accompanied by a complete translation into the English language. The translation must be an original document and contain the notarized signature of the translator. An individual may not translate his/her own documents.

88-008 CONTINUING COMPETENCY REQUIREMENTS: Each person holding an active credential within the state must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless such requirements are waived in accordance with 172 NAC 88-009.03 and 88-009.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

88-008.01 On or before the credential expiration date, individuals whose credentials expire on October 1 of each even-numbered year must earn one of the following:

1. 50 hours of Category 1 continuing education approved as follows:
 - a. Approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA);
 - b. One year of participation in an approved graduate medical education program is approved as 50 hours of Category 1 continuing education;
 - c. Hours are to be earned within the 24 months immediately preceding the date of expiration, except that a licensee who has earned more than the 50 hours required for license renewal for one 24-month renewal period is allowed to carry over up to 25 hours to the next 24-month renewal period.

Or

2. The AMA Physician's Recognition Award or the AOA CME Certification earned within the 24 months immediately preceding the date of expiration.

88-008.02 On or before the credential expiration date, individuals whose credentials expire on July 1 of each year must earn one of the following:

1. 25 hours of Category 1 continuing education approved as follows:
 - a. Approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA);
 - b. One year of participation in an approved graduate medical

education program is approved as 50 hours of Category 1 continuing education;

- c. Hours are to be earned within the 12 months immediately preceding the date of expiration.

Or

2. The AMA Physician's Recognition Award or the AOA CME Certification earned within the 12 months immediately preceding the date of expiration.

88-009 RENEWAL: An individual who wants to renew his/her license to practice medicine and surgery or osteopathic medicine and surgery must request renewal as specified in 172 NAC 88-009.02. All licenses to practice medicine and surgery and osteopathic medicine and surgery issued by the Department will expire on October 1 of each even-numbered year.

An individual who wants to renew his/her Temporary Educational Permit or Visiting Faculty Permit must request renewal as specified in 172 NAC 88-009.02. All Temporary Educational Permits and Visiting Faculty Permits issued by the Department will expire on July 1 each year.

88-009.01 Renewal Notice: At least 30 days before the expiration of a credential, the Department will notify each credential holder at the last known address of record. The renewal notice will include:

1. The type of credential;
2. The credential number;
3. The expiration date;
4. Continuing competency requirements for renewal;
5. The amount of the renewal fee; and
6. Information on how to request renewal and how to place a credential on inactive status.

88-009.02 Renewal Procedures: The request for renewal may be submitted in person or by mail or internet, and must include all required documentation and the renewal fee, which must be paid no later than the expiration date. The applicant may obtain an application from the Department or construct an application.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code, or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.

- Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both;
- b. May provide the following information about him/herself:
 - (1) The applicant's telephone number including area code;
 - (2) The applicant's e-mail address; and
 - (3) The applicant's fax number; and
 - c. Must attest that s/he has met the continuing competency requirements specified in 172 NAC 88-008 or has requested a waiver if s/he meets the requirements of 172 NAC 88-009.03 and/or 88-009.04.
2. Documentation: The applicant must submit the following documentation with the application.
- a. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
 - b. Other Credential: If the applicant holds a credential to provide health services or health-related services in Nebraska or in another jurisdiction, the applicant must submit the state, credential number, type of credential, date issued, and expiration date of each credential where the applicant has been or is currently credentialed;
 - c. Disciplinary Action: A list of any disciplinary actions taken against the applicant's credential and a copy of the disciplinary action(s), including charges and disposition;
 - d. Denial: If the applicant was denied a credential or denied the right to take an examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) Official Court Record, which includes charges and disposition;
 - (3) Explanation from the applicant of the events leading to the conviction (what, when, where, why) and a summary of actions the applicant has taken to address the behaviors/actions related to the convictions;
 - (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;
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation; and
 - (6) Any other information as requested by the Board/Department; and
3. The required renewal fee.

88-009.03 Waivers for Military Service: A credential holder who has served in the regular armed forces of the United States during part of the credentialing period immediately preceding the renewal date, or is actively engaged in military service as defined in 172 NAC 88-002, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation is submitted to the Department. The individual must document his/her military service by submitting to the Department:

- 1. Military identification proving that s/he is in active service;
- 2. Military orders; or
- 3. A letter from his/her Commanding Officer indicating that s/he is on active duty.

Upon receipt of acceptable documentation, the Department will waive the fee and the continuing competency requirements and renew the credential. The credential will remain active until the next renewal period.

88-009.04 Waiver of Continuing Competency Requirements: The Department waives continuing competency requirements for individuals who were first credentialed within the 24-month period immediately preceding the renewal date.

88-009.05 Audit Of Continuing Competency Requirements: The Department or the Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credential holder selected for audit must produce documentation of the continuing competency activities.

88-009.05A The Department will notify each selected credential holder by mail. Failure to notify the Department of a current mailing address will not absolve the credential holder from the requirement for audit.

88-009.05B Within 30 days, each selected credential holder must respond by submitting documentation that s/he has met the requirements for continuing competency. An extension beyond 30 days for submission of the documentation may be granted at the discretion of the Department. Documentation submitted by the credential holder will not be returned.

88-009.05C Acceptable documentation that the credential holder has met the continuing competency requirements includes, but is not limited to:

- 1. Certificates of attendance, transcripts, letters from a provider certifying

- attendance, or other documentation showing attendance at an approved course or educational program as outlined in section 88-008.01 or 88-008.02;
2. Certificates or other documentation showing that the credential holder has received the AMA Physician's Recognition Award within the applicable time period under 88-008.01 or 88-008.02; and
 3. Certificates or other documentation showing the credential holder has earned AOA CME Certification within the applicable time period under 88-008.01 or 88-008.02.

88-009.05D The Department/Board will review the submitted documentation to determine if the credential holder has met the requirements for continuing competency activities for renewal of the credential. Only documented activities/hours that meet the continuing competency requirements will be counted toward the total requirements for renewal.

88-009.05E The Department will notify the credential holder upon satisfactory completion of the audit.

88-009.05F The credential of any person who fails to comply with the conditions of the audit will expire 30 days after notice and an opportunity for a hearing.

88-009.05G The Board reserves the right to audit continuing competency requirements of any credential holder by notifying the credential holder and requesting that s/he produce the required documentation of attendance at or participation in acceptable continuing competency programs within 30 days of mailing.

88-009.06 Department Review: The Department will act within 150 days upon all completed applications for renewal.

88-009.06A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal to renew will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

88-009.07 Address Information: Each credential holder must notify the Department of any change to the address of record.

88-009.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

88-009.08 Expiration of a Credential: A credential expires if a credential holder fails to:

1. Notify the Department that s/he wants to place his/her credential on inactive status upon its expiration;
2. Meet the requirements for renewal on or before the date of expiration of his/her credential; or
3. Otherwise fails to renew his/her credential.

88-009.08A Failure to Renew: A credential automatically expires without further notice or opportunity for hearing if a credential holder fails by the expiration date of the credential to either:

1. Submit documentation of continuing competency; or
2. Pay the required renewal fee.

88-009.08B Failure to Meet Continuing Competency Requirements: The Department will refuse to renew a credential, after notice and opportunity for hearing, if a credential holder fails to meet the continuing competency requirements for renewal by the expiration date of the credential.

88-009.08C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice medicine and surgery/osteopathic medicine and surgery terminates.

88-009.08D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 88-013 or such other action as provided in the statutes and regulations governing the credential.

88-009.08E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice of medicine and surgery after failing to renew his/her credential by the expiration date, s/he must apply to the Department for reinstatement as specified in 172 NAC 88-012.

88-009.09 Inactive Status: When an individual wants to have his/her credential placed on inactive status, s/he must notify the Department in writing. There is no fee to have a credential placed on inactive status and continuing competency is not required.

88-009.09A Request for Inactive Status: When the Department has received notification that an individual wants to have his/her credential placed on inactive status, the Department will notify the credential holder in writing of the acceptance or denial of the request.

88-009.09B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice of medicine and surgery/osteopathic medicine and surgery, but may represent him/herself as having an inactive credential.

88-009.09C Return to Active Status: A credential may remain on inactive status

for an indefinite period of time. An individual who wants to have his/her credential returned to active status must apply to the Department for reinstatement and meet the requirements specified in 172 NAC 88-012.

88-010 DISCIPLINARY ACTIONS

88-010.01 Grounds for Action Against a Credential: A credential to practice a profession may have disciplinary actions taken against it on any of the following grounds:

1. Misrepresentation of material facts in procuring or attempting to procure a credential;
2. Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state.
3. Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
4. Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 38-175;
5. Conviction of:
 - a. A misdemeanor or felony under Nebraska law or federal law, or
 - b. A crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant to practice the profession;
6. Practice of the profession:
 - a. Fraudulently;
 - b. Beyond its authorized scope;
 - c. With manifest incapacity;
 - d. In a pattern of negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, physical disability, mental disability, or emotional disability;
8. Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
9. Illness, deterioration, or disability that impairs the ability to practice the profession;
10. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
11. Having had his/her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to 172 NAC 88-010.05 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this part;
12. Use of untruthful, deceptive, or misleading statements;
13. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;

14. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes;
15. Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
16. Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act.
18. Failure to file a report required by Neb. Rev. Stat. § 38-1,124 or 38-1,125;
19. Failure to maintain the requirements necessary to obtain a credential;
20. Violation of an order issued by the Department;
21. Violation of an assurance of compliance entered into under Neb. Rev. Stat. § 38-1,108;
22. Failure to pay an administrative penalty;
23. Unprofessional conduct as defined in 172 NAC 88-010.02; or
24. Violation of the Automated Medication Systems Act.

88-010.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of medicine and surgery or the ethics of the profession, regardless of whether a person, patient, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to:

1. Receipt of fees on the assurance that an incurable disease can be permanently cured;
2. Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than:
 - a. With a partner or employee of the applicant or credential holder or his/her office or clinic;
 - b. With a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts;
 - c. With a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement; or
3. Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
4. Cheating on or attempting to subvert the licensing or state examination;
5. Assisting in the care or treatment of a consumer without the consent of the consumer or his/her legal representative;
6. Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that the person is entitled to practice a profession for which s/he is not credentialed;
7. Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;

8. Knowingly disclosing confidential information except as otherwise permitted by law;
9. Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder. Sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity; committing any act which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both;
10. Failure to keep and maintain adequate records of treatment or service. Adequate records means legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment, and, when investigative or unproven therapies are utilized, the records must include written informed patient consent;
11. Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
12. Prescribing any controlled substance to:
 - a. Oneself or
 - b. Except in the case of a medical emergency;
 - (1) One's spouse;
 - (2) One's child;
 - (3) One's parent;
 - (4) One's sibling; or
 - (5) Any other person living in the same household as the prescriber;
13. Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
14. Disruptive physician behavior as manifested by a physician's aberrant behavior which interferes with patient care or could reasonably be expected to interfere with patient care, including, but not limited to, the following:
 - a. Outbursts of rage or violent behavior;
 - b. Repeated failure to respond to calls;
 - c. Throwing instruments, charts, or objects;
 - d. Insulting comments to a patient, patient's family, physicians, or healthcare staff;
 - e. Striking or assaulting a patient, patient's family, physicians, or healthcare staff; and
 - f. Poor hygiene;
15. A departure from or failure to conform to the ethics of the medical profession, which ethics are found in the American Medical Association's Code of Medical Ethics and Opinions;

16. Misrepresentation of material facts in applying for or procuring renewal of a license or permit;
17. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
18. The use of any false or deceptive statement in any advertisement;
19. Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department;
20. Providing treatment or consultation recommendations, including issuing a prescription, via electronic or other means, unless the physician has obtained a history and physical evaluation of the patient adequate to establish diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided and that arrangements exist to insure availability of the physician or physician coverage for follow-up patient care;
21. Practicing medicine under a false or assumed name;
22. Allowing another person or organization to use his/her license to practice medicine;
23. Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to an addict or any person previously drug dependent, any drug legally classified as a controlled substance;
24. Violating any federal law or regulation relating to controlled substances;
25. Failure to transfer pertinent and necessary medical records to another physician in a timely fashion when requested to do so by the patient or by a designated representative of the patient;
26. Use of any therapy, drug or device in a manner inconsistent with the federal Food, Drug and Cosmetic Act;
27. Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs;
28. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin;
29. Prescribing, selling, administering, or distributing, any drug legally classified as a prescription drug other than for proper medical purposes;
30. Prescribing, dispensing or administering Schedule II controlled substances as defined in Neb. Rev. Stat. § 28-405(a) including amphetamines and similar Schedule II sympathomimetic drugs in the treatment of exogenous obesity for a period in excess of thirty days in any one year, or the non-therapeutic use of injectable amphetamines;
31. Signing a blank, undated or predated prescription form;
32. Conduct or practice outside the normal standard of care in the State of Nebraska which is or might be harmful or dangerous to the health of the patient or the public, not to include a single act of ordinary negligence;
33. Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes;
34. Lack of or inappropriate direction, collaboration or direct supervision of a licensed, certified or registered health care provider employed by, supervised by or assigned to the physician;

35. Failure to comply with Neb. Rev. Stat. §§ 71-604, 71-605, and 71-606 relating to the signing of birth and death certificates;
36. Failure to comply with Neb. Rev. Stat. § 38-2062 relating to disclosure of billing for anatomic pathology services.
37. Refusal to undergo an examination defining competency as required by the Board;
38. Performance by a physician of an abortion as defined in subdivision (1) of Neb. Rev. Stat. § 28-326 under circumstances when s/he will not be available for a period of at least 48 hours for postoperative care unless such postoperative care is delegated to and accepted by another physician;
39. Performing an abortion upon a minor without having satisfied the notice requirements of Neb. Rev. Stat. §§ 71-6901 to 71-6911;
40. The intentional and knowing performance of a partial-birth abortion as defined in subdivision (7) of Neb. Rev. Stat. § 28-326, unless such procedure is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physician condition caused by or arising from the pregnancy itself;
41. Performance by a physician of an abortion in violation of the Pain-Capable Unborn Child Protection Act; and
42. Failure by any physician to conform to any requirement of Neb. Rev. Stat. § 28-3,105.

88-010.03 Temporary Suspension or Limitation

88-010.03A The Department may temporarily suspend or temporarily limit any credential issued by the Department without notice or a hearing if the Director determines that there is reasonable cause to believe that grounds exist under 172 NAC 88-010.01 for the revocation, suspension, or limitation of the credential and that the credential holder's continuation in practice or operation would constitute an imminent danger to the public health and safety. Simultaneously with the action, the Department will institute proceedings for a hearing on the grounds for revocation, suspension, or limitation of the credential. The hearing will be held no later than 15 days from the date of the temporary suspension or temporary limitation of the credential.

88-010.03B A continuance of the hearing will be granted by the Department upon the written request of the credential holder, and the continuance must not exceed 30 days unless waived by the credential holder. A temporary suspension or temporary limitation order by the Director will take effect when served upon the credential holder.

88-010.03C A temporary suspension or temporary limitation of a credential under 172 NAC 88-010.03 will not be in effect for more than 90 days unless waived by the credential holder. If a decision is not reached within 90 days, the credential will be reinstated unless and until the Department reaches a decision to revoke, suspend, or limit the credential or otherwise discipline the credential

holder.

88-010.04 Department Action: The Department will follow the procedures delineated in the Uniform Credentialing Act to notify credential holders of any disciplinary action to be imposed and the time and place of the hearing.

88-010.05 Sanctions: Upon the completion of any hearing held regarding discipline of a credential, the Director may dismiss the action or impose the following sanctions:

1. Censure;
2. Probation;
3. Limitation;
4. Civil Penalty;
5. Suspension; or
6. Revocation.

88-010.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 88-010.05, the Director may, in addition to any other terms and conditions of that discipline:

1. Require the credential holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of the combinations of written, oral, practical, and clinical, at the option of the Director;
2. Require the credential holder to submit to a complete diagnostic examination by one or more physicians or other qualified professionals appointed by the Director. If the Director requires the credential holder to submit to an examination, the Director will receive and consider any other report of a complete diagnostic examination given by one or more physicians or other qualified professionals of the credential holder's choice if the credential holder chooses to make available the report or reports by his/her physician or physicians or other qualified professionals; and
3. Limit the extent, scope, or type of practice of the credential holder.

88-011 VOLUNTARY SURRENDER OR LIMITATION: A credential holder may offer to voluntarily surrender or limit a credential issued by the Department. The credential holder must make the offer in writing on a form provided by the Department or constructed by the credential holder, which must include the following information:

1. Personal Information:
 - a. First, middle and last name;
 - b. Mailing address (street, rural route, or post office address), city, state, and zip code;
 - c. Telephone number; and

- d. Fax number.
2. Information Regarding the Credential Being Offered for Surrender or Limitation:
 - a. List credential(s) and credential number(s) that would be surrendered or limited;
 - b. Indicate the desired time frame for offered surrender or limitation:
 - (1) Permanently;
 - (2) Indefinitely; or
 - (3) Definite period of time (specify);
 - c. Specify reason for offered surrender or limit of credential; and
 - d. Specify any terms and conditions that the credential holder wishes to have the Department consider and apply to the offer.
3. Attestation: The credential holder must:
 - a. Attest that all the information on the offer is true and complete; and
 - b. Provide the credential holder's signature and date.

88-011.01 The Department may accept an offer of voluntary surrender or limitation of a credential based on:

1. An offer made by the credential holder on his/her own volition;
2. An offer made with the agreement of the Attorney General or the legal counsel of the Department to resolve a pending disciplinary matter;
3. A decision by the Attorney General to negotiate a voluntary surrender or limitation in lieu of filing a petition for disciplinary action; or
4. A decision by the legal counsel of the Department to negotiate a voluntary surrender or limitation in response to a notice of disciplinary action.

88-011.02 The Department may reject an offer of voluntary surrender of a credential under circumstances which include, but are not limited to, when the credential:

1. Is under investigation;
2. Has a disciplinary action pending but a disposition has not been rendered; or
3. Has had a disciplinary action taken against it.

88-011.03 When the Department either accepts or rejects an offer of voluntary surrender or limitation, the Director will issue the decision in a written order. The order will be issued within 30 days after receipt of the offer of voluntary surrender or limitation and will specify:

1. Whether the Department accepts or rejects the offer of voluntary surrender; and
2. The terms and conditions under which the voluntary surrender is accepted or the basis for the rejection of an offer of voluntary surrender. The terms and conditions governing the acceptance of a voluntary surrender will include, but not be limited to:
 - a. Duration of the surrender;
 - b. Whether the credential holder may apply to have the credential reinstated; and

- c. Any terms and conditions for reinstatement.

88-011.04 A limitation may be placed on the right of the credential holder to practice a profession or operate a business to the extent, for the time, and under the conditions as imposed by the Director.

88-011.05 Violation of any of the terms and conditions of a voluntary surrender or limitation by the credential holder will be due cause for the refusal of renewal of the credential, for the suspension or revocation of the credential, or for refusal to restore the credential.

88-011.06 Reinstatement following voluntary surrender is set out in 172 NAC 88-012.

88-012 REINSTATEMENT: This section applies to individuals previously credentialed who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows:

1. An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.
2. An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.
3. An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.
4. An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

88-012.01 Reinstatement From Expired or Inactive Status or Following Voluntary Surrender Unrelated to a Disciplinary Matter

The applicant must submit to the Department a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;
 - (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or

- (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (3) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
- b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
 - (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
 - (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number; and
- d. Must attest that s/he:
 - (1) Has met the continuing competency requirements specified in 172 NAC 88-008 within the 24 months immediately preceding submission of the application;
 - (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 88-010 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts;
 - (4) Meets one of the following criteria within the three years immediately preceding the application for reinstatement:
 - (a) Has been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - (b) Has had at least one year of approved graduate medical education; or
 - (c) Has completed continuing medical education approved by the Board; or
 - (d) Has completed a refresher course in medicine and surgery approved by the Board; or
 - (e) Has completed the special purpose examination approved by the Board.

- e. The applicant must also provide information related to the following, as requested on the application of the Department:
- (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.

2. Fee(s): The following fee(s):
 - a. If the credential is expired or inactive, the reinstatement and renewal fees; or
 - b. If the credential was voluntarily surrendered, the renewal fee.

88-012.01A If an applicant has practiced while her/his credential was inactive, or voluntarily surrendered, the Department may, with the recommendation of the Board, take one or more of the following actions:

1. Deny the application to reinstate the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstatement the credential.

88-012.01B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Deny the application for reinstatement of the credential;
2. Reinstatement the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstatement the credential.

88-012.01C The Department will act within 150 days on all completed applications.

88-012.01D The Department's decision may be appealed to the Director by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

88-012.02 Reinstatement from Non-Disciplinary Revocation or Lapsed Status: An individual whose credential was placed on non-disciplinary revocation or lapsed status before December 1, 2008 may apply for reinstatement as provided in 88-012.01.

88-012.03 Reinstatement Following Suspension, Limitation, Revocation, or Voluntary Surrender to Resolve a Pending Disciplinary Matter, In Lieu of Discipline, or In Response to a Notice of Disciplinary Action: An individual whose credential was suspended or limited may apply for reinstatement at any time. An individual whose credential has been revoked may apply for reinstatement after a period of two years has elapsed from the date of revocation. An individual whose credential was voluntarily surrendered may apply for reinstatement according to the order entered by the Director.

The applicant must submit to the Board a written application on a form provided by the Department or constructed by the applicant.

1. Application: The applicant, on his/her application:
 - a. Must provide the following information:
 - (1) The legal name of the applicant, maiden name (if applicable), and any other names by which the applicant is known;

- (2) Mailing address (street, rural route, or post office address; and city, state, and zip code or country information);
 - (3) The applicant's:
 - (a) Social Security Number (SSN); or
 - (b) Alien Registration Number (A#); or
 - (c) Form I-94 (Arrival-Departure Record) number.
Certain applicants may have both a SSN and an A# or I-94 number, and if so, must report both.
 - (4) If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement of the reason the applicant believes his/her credential should be reinstated;
- b. If the applicant is not a United States citizen, s/he must submit evidence of lawful admission or presence in the United States, which may include a copy of:
- (1) A Green Card, otherwise known as a Permanent Resident Card (Form I-551), both front and back of the card;
 - (2) An unexpired foreign passport with an unexpired Temporary I-551 stamp bearing the same name as the passport;
 - (3) A document showing an Alien Registration Number ("A#"). An Employment Authorization Card/Document is not acceptable; or
 - (4) A Form I-94 (Arrival-Departure Record);
- c. May provide the following information about him/herself:
- (1) Telephone number including area code;
 - (2) E-mail address;
 - (3) Fax number.
- d. Must attest that s/he:
- (1) Has met the continuing competency requirements specified in 172 NAC 88-008 within the 24 months immediately preceding submission of the application;
 - (2) Has not practiced in Nebraska since s/he last held an active credential, or if the applicant has practiced in Nebraska since s/he last held an active credential, the actual number of days practiced;
 - (3) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 88-010 since the last renewal or issuance of the credential (whichever is later), or if an act(s) was committed, provide an explanation of all such acts;
 - (4) Meets one of the following criteria within the three years immediately preceding the date of application:
 - (a) Has been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - (b) Has had at least one year of approved graduate

- medical education; or
 - (c) Has completed continuing medical education as approved by the Board; or
 - (d) Has completed a refresher course in medicine and surgery approved by the Board; or
 - (e) Has completed the special purpose examination approved by the Board.
- e. The applicant must also provide information related to the following, as requested on the application of the Department:
 - (1) History of charges, complaints, disciplinary actions, adverse actions, or other actions against a professional license or permit in any state or jurisdiction including, but not limited to:
 - (a) Voluntary surrenders or voluntary limitations;
 - (b) Currently pending investigations or complaints;
 - (c) Prior refusals to issue, refusals to renew, or denials of a license or permit;
 - (2) Information relating to fitness to practice including, but not limited to:
 - (a) Addiction, dependence upon or chronic impairment by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence;
 - (b) Physical, mental, or emotional conditions which impair the applicant's ability to practice the profession safely and competently;
 - (3) History of any remedial or disciplinary actions during medical school or postgraduate training including, but not limited to restrictions, suspensions, terminations, request for voluntary resignation, probation, counseling, and receipt of warnings;
 - (4) History of adverse actions initiated or carried out related to hospital or institutional privileges including, but not limited to, involuntary adverse actions, voluntary resignations or suspensions, or withdrawals;
 - (5) Any employment disciplinary actions or non-renewal of an employment contract;
 - (6) Criminal history, including convictions and charges, complaints or other actions that did not result in convictions;
 - (7) History of adverse actions by the Federal Drug Enforcement Administration (DEA) or a state controlled substances agency including, but not limited to:
 - (a) Denials of registration;
 - (b) Calls to come before a licensing agency or other lawful authority in relation to DEA controlled substances;
 - (c) Surrenders of a state or federal controlled

- substances registration;
 - (d) Restrictions or disciplinary actions of a state or federal controlled substances registration;
 - (8) History of professional liability claims, adverse judgments, settlements, or awards, including any pending professional liability claims.
2. Fee: The renewal fee.

88-012.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

88-012.03B The Department, with the recommendation of the Board, may:

1. Conduct an investigation to determine if the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. § 38-178;
2. Require the applicant to submit to a complete diagnostic examination, at the expense of the applicant, by one or more physician(s) or other professionals appointed by the Board. The applicant may also consult a physician(s) or other professionals of his/her own choice for a complete diagnostic examination and make available a report(s) of the examination(s) to the Department and to the Board;
3. Require the applicant to pass a written, oral, or practical examination or any combination of examinations at the expense of the applicant;
4. Require the applicant to successfully complete additional education at the expense of the applicant;
5. Require the applicant to successfully pass an inspection of his/her practice site; or
6. Take any combination of these actions.

88-012.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 88-012.03B, the Board may:

1. Deny the application for reinstatement; or
2. Recommend to the Department:
 - a. Full reinstatement of the credential;
 - b. Modification of the suspension or limitation; or
 - c. Reinstatement subject to limitations or subject to probation with terms and conditions.

If the applicant has practiced while his/her credential was suspended, limited, revoked, or voluntarily surrendered, the Department may assess an administrative penalty pursuant to 172 NAC 88-013, in which case a separate notice of opportunity for hearing will be sent to the applicant.

88-012.03D An affirmative vote of a majority of the full membership of the Board as authorized by statute is required to recommend reinstatement of a credential with or without terms, conditions, or restrictions.

88-012.03E Full Reinstatement: If the Board recommends full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or subject to probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

88-012.03F Denial, Modification, Limitation, or Probation: If the Board's initial decision is to deny the application for reinstatement, recommend modification of the suspension or limitation, or reinstate the credential subject to limitation or probation with terms and conditions, notification of the Board's decision will be mailed to the applicant by certified mail.

1. The initial decision or recommendation of the Board will become final 30 days after the decision or recommendation is mailed to the applicant unless the applicant requests a hearing within that 30-day period.
 - a. If the applicant requests a hearing before the Board, the Department will mail a notice of the date, time, and location of the hearing. The notice will be sent by certified mail at least 30 days before the hearing.
 - b. Following the hearing, the Board may deny the reinstatement or recommend full reinstatement of the credential, or recommend modification of the suspension or limitation, or recommend reinstatement of the credential subject to limitations or probation with terms and conditions.
2. If the applicant has been afforded a hearing or an opportunity for a hearing on an application for reinstatement within two years before filing the current application, the Department may grant or deny the application without another hearing before the Board.

88-012.03G Denial Decision: If the Board's final decision is denial of the application for reinstatement, the applicant will be notified by certified mail. The applicant may appeal the Board's denial to District Court in accordance with the Administrative Procedure Act.

88-012.03H Board Recommendation: If the Board's final recommendation is full reinstatement of the credential, modification of the suspension or limitation, or reinstatement of the credential subject to limitations or probation with terms and conditions, the Board's recommendation will be sent to the applicant by certified mail. The following information will be forwarded to the Director for a decision:

1. The written recommendation of the Board, including any finding of fact or order of the Board;
2. The application for reinstatement;
3. The record of hearing, if any; and
4. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the applicant.

88-012.03I Director's Review: The Director, upon receipt of the Board's recommendation for full reinstatement, modification, or probation, will review the application and other documents and make a decision within 150 days of receipt of the Board's recommendation and accompanying documents. The Director will enter an order setting forth the decision. The Director may:

1. Affirm the recommendation of the Board and grant reinstatement; or
2. Reverse or modify the recommendation if the Board's recommendation is:
 - a. In excess of statutory authority;
 - b. Made upon unlawful procedure;
 - c. Unsupported by competent, material, and substantial evidence in view of the entire record; or
 - d. Arbitrary and capricious.

The order regarding reinstatement of the applicant's credential will be sent to the applicant by certified mail. The Director's decision may be appealed to District Court by any party to the decision. The appeal must be in accordance with the Administrative Procedure Act.

88-013 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists of practice without a credential to practice a profession or operate a business. Practice without a credential for the purpose of this regulation means practice:

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

88-013.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without being credentialed:

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, or 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. Government records indicate that the person was engaged in practice; and
7. The person 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.

88-013.02 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 credential. To assess the penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, remit the penalty to the State Treasurer to be disposed of in accordance with Article VII, section 5 of the Constitution of Nebraska;
 - 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. The Department may also collect in such action attorney's fees and costs incurred directly in the collection of the administrative penalty; and
 - f. That failure to pay an administrative penalty may result in disciplinary action.
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.

88-013.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Administrative Procedure Act and 184 NAC 1, the Department's Rules of Practice and Procedure For Administrative Hearings.

EFFECTIVE
DECEMBER 21, 2013

DEPARTMENT OF HEALTH
AND HUMAN SERVICES

172 NAC 88

88-014 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

These amended rules and regulations replace Title 172 NAC 88, Regulations Governing the Practice of Medicine and Surgery and Osteopathic Medicine and Surgery effective August 3, 2004.