

EFFECTIVE
8/8/07

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

CNS
172 NAC 107

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 107 CLINICAL NURSE SPECIALISTS

107-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of Clinical Nurse Specialists in the State of Nebraska. Statutory authority for these regulations is in the Advanced Practice Registered Nurse Licensure Act, the Clinical Nurse Specialist Practice Act, the Nurse Licensure Compact, and the Uniform Licensing Law.

107-002 DEFINITIONS

Act means the Clinical Nurse Specialist Practice Act.

Advanced Practice Registered Nurse (APRN) means a registered nurse who holds a current APRN license as a Certified Nurse Midwife, Certified Registered Nurse Anesthetist, Clinical Nurse Specialist, or Nurse Practitioner.

Approved clinical nurse specialist program means a program which:

1. Offers a master's degree or a doctoral degree in a nursing clinical specialty area; or
2. Offers a graduate-level clinical nurse specialist education program to individuals who have a master's degree in nursing.

Approved certifying body means a national certification organization which: (1) certifies qualified licensed nurses for advanced practice; (2) is approved by the Board; (3) has eligibility requirements related to education and practice; and (4) offers an examination in an area of practice which meets psychometric guidelines and tests approved by the Board.

Approved certifying examination means an examination for clinical nurse specialists offered by an approved certifying body.

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

Board means the Board of Advanced Practice Registered Nurses.

Certification means the status granted in a nursing clinical specialty by an approved certifying body through a process which requires evidence of completion of a formal program of study in an clinical specialty and successful completion of an examination.

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Clinical Nurse Specialist means a registered nurse who meets the requirements of Neb. Rev. Stat. § 71-17,119 and who holds a license issued under the Clinical Nurse Specialist Practice Act. The practice of a clinical nurse specialist includes health promotion, health supervision, illness prevention, and disease management, including assessing patients, synthesizing and analyzing data, and applying advanced nursing practice. A clinical nurse specialist conducts and applies research, advocates, serves as an agent of change, engages in systems management, and assesses and intervenes in complex health care problems within the selected clinical specialty.

Completed application means all of the information requested in 172 NAC 107-003 has been provided and attested and the appropriate fees and all required documentation have been submitted.

Continuing education means planned, organized, systematic, and evaluative educational experiences designed to maintain or enhance the knowledge, skills, and/or attitudes of Clinical Nurse Specialists for nursing practice in health promotion, health supervision, illness prevention, and disease management, including assessing patients, synthesizing and analyzing data, and applying advanced nursing practice.

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

Director means the Director of Public Health of the Division of Public Health or the Chief Medical Officer if one has been appointed.

Expired license means a license whose expiration date has passed.

Inactive license means a license which the license holder has voluntarily placed on inactive status. An individual with an inactive license has terminated the right to practice or represent himself or herself as having an active license.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 107.

Nurse Licensure Compact means the agreement among states that have enacted the standard provisions of the compact into their individual state statutes. The compact applies only to Registered Nurse and Licensed Practical Nurse licensure. It does not apply to advanced practice nurse licensure. In Nebraska, the compact is in Neb. Rev. Stat. § 71-1795. The compact allows a nurse to have one license (in his/her state of residence) and practice in other states, as long as the nurse acknowledges that s/he is subject to each state's practice laws and discipline. Practice across state lines is allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.

Official record means a document that carries the seal, signature or other notation indicating that the document was issued by the primary source.

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

Recertification means the continued periodic granting of certification in a clinical specialty area by an approved certifying body through a process that requires the applicant to meet criteria related to education and practice.

Reentry program means an organized approach to learning that results in current knowledge related to one or more specialty area(s) of advanced nursing practice.

Reinstatement means the return to active status and the restoration of the authority to practice to a license holder who previously held a license in this state.

107-003 REQUIREMENTS FOR ISSUANCE OF A LICENSE: A person may practice as a Clinical Nurse Specialist in Nebraska only if s/he holds a Nebraska license. This requirement does not prohibit persons identified in Neb. Rev. Stat. § 71-17,128 from practicing as limited by that section. The criteria for issuance of a license and the documents required in applying are set forth below.

107-003.01 Requirements for Licensure: The applicant must:

1. Be licensed as a registered nurse in the State of Nebraska or have the authority to practice in this state as a registered nurse pursuant to the provisions of the Nurse Licensure Compact;
2. Have successfully completed an approved program leading to a master's degree or a doctoral degree in a nursing clinical specialty area; or hold a master's degree in nursing and have completed a graduate-level clinical nurse specialist education program;
3. Have passed an approved certifying examination. Approved certifying examinations include:
 - a. American Nurses Credentialing Center (ANCC) – CNS examinations in Adult Health, Adult Psychiatric and Mental Health, Advanced Diabetes Management, Child/Adolescent Psychiatric and Mental Health, Community Health, Gerontological Nursing, or Pediatric Nursing;
 - b. American Association of Critical-Care Nurses (AACN) – CNS examinations in Adult Acute and Critical Care, Neonatal Acute and Critical Care, or Pediatric Acute and Critical Care; and
 - c. Oncology Nursing Certification Corporation – Advanced Oncology CNS examination;
4. Meet the requirements for continuing competency by submitting documentation of one of the following:
 - a. Current national certification/recertification for those licensed after September 1, 2007, and:

- (1) Completion of an approved CNS program in the previous five years; or
- (2) Practice as a CNS in a specific advanced practice role in the previous five years.
 - (a) Applicants who have previously been authorized in another state must have 2080 hours of practice within the five years immediately preceding application; and
- b. Applicants who do not have current national certification/recertification and who have not completed an approved CNS program in the previous five years or practiced as a CNS in a specific advanced practice role in the previous five years must:
 - (1) Have successfully completed a reentry program within the previous two years that has been approved by the Board; or
 - (2) Pass an approved credentialing examination within the two years immediately preceding application.
 - (a) Applicants must obtain a temporary permit for the practice portion of the reentry program; and
5. Pay the appropriate fee.
6. If certification is not available, the applicant must meet an alternative method of competency assessment by any means approved by the Board.

107-003.02 Applicants must submit to the Department:

1. A written application which:
 - a. Is verified by the applicant's oath;
 - b. Contains the following information about the applicant:
 - (1) Name;
 - (2) Address;
 - (3) Day and evening telephone numbers;
 - (4) Gender;
 - (5) Date of birth;
 - (6) Place of birth;
 - (7) Social Security number;
 - (8) Name and location of advanced practice nursing program;
 - (9) Name and location of master's program, if applicable; and
 - (10) Nebraska RN license number or RN license number from a compact state of primary residence;

- c. Contains a statement describing all of the following (information previously submitted on a mandatory report or other license application does not need to be submitted again):
 - (1) Pending charges which could result in a felony or misdemeanor conviction;
 - (2) Felony or misdemeanor convictions;
 - (3) Denials, discipline or pending discipline of a license in any health care profession; and
 - (4) Denials of admissions to take a licensing examination in any health care profession;
2. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license.
 - (1) An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty under 172 NAC 98-004;
3. An official transcript from an approved program documenting completion of program requirements including a master's degree or doctoral degree;
4. Documentation of having passed an approved certifying examination or documentation of an alternative method of competency assessment. A letter or other official record from an approved certifying body will be acceptable. Approved certifying examinations include:
 - a. American Nurses Credentialing Center (ANCC) – CNS examinations in Adult Health, Adult Psychiatric and Mental Health, Advanced Diabetes Management, Child/Adolescent Psychiatric and Mental Health, Community Health, Gerontological Nursing, or Pediatric Nursing;
 - b. American Association of Critical-Care Nurses (AACN) – CNS examinations in Adult Acute and Critical Care, Neonatal Acute and Critical Care, or Pediatric Acute and Critical Care; and
 - c. Oncology Nursing Certification Corporation – Advanced Oncology CNS examination; and
5. The required license fee.
 - a. Proration of Initial license Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25 and if applicable the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.

107-003.03 The following applicants must provide additional information to the Department:

1. Persons with pending charges which could result in a felony or misdemeanor conviction;
2. Persons who have been convicted of a felony or misdemeanor; and
3. Persons whose license to practice in a health care profession has been denied or disciplined or is pending discipline.

107-003.04 Applicants listed in 172 NAC 107-003.03 must submit the following to the Department:

1. A full explanation of the pending charges, conviction, denial, disciplinary action, or pending disciplinary action; and
2. Official records as requested by the Department related to the conviction, denial or discipline; for example, probation reports, court records, licensure disciplinary reports, or chemical dependency evaluation.

107-003.05 The Department will act within 150 days upon all completed applications for licensure.

107-003.06 If the Department denies issuance of a license, the applicant will be given an opportunity for an administrative hearing before the Department which will be conducted in accordance with the Administrative Procedure Act and the Department's Rules of Practice and Procedure.

107-003.07 A person licensed as a clinical nurse specialist has the right to use the title Clinical Nurse Specialist and the abbreviation CNS.

107-004 CONTINUING COMPETENCY: The criteria for demonstration of continuing competency and the documents required are as follows:

107-004.01 By a license holder seeking to renew or reinstate a Clinical Nurse Specialist license:

1. National certification/recertification or documentation of an alternative method of competency assessment, if licensed after September 1, 2007;
2. Documentation of a minimum of 2080 hours of practice as a Clinical Nurse Specialist within the previous five years immediately preceding renewal.
 - a. Hours spent by faculty in a graduate-level clinical nurse specialist program in the supervision of students in the clinical area may apply toward the 2080 hours.
 - b. Applicants who have been licensed in Nebraska or authorized by any other jurisdiction for less than five years will not be required to meet the practice requirement for license renewal; and

3. Documentation of 40 contact hours of continuing education in the clinical specialty area within the previous two years.
 - a. Applicants who have been licensed in Nebraska or authorized by any other jurisdiction for less than two years will not be required to meet the continuing education for license renewal.
4. Applicants seeking reinstatement or renewal who cannot meet these requirements must complete a reentry program approved by the Board. The reentry program must include a minimum of 2080 hours of practice within the previous five years, and 40 contact hours of continuing education within the previous two years.
 - a. Applicants must obtain a temporary permit for the practice portion of the reentry program. The reentry program must be completed within two years of issuance of the temporary license.

107-004.02 Waiver of Continuing Competency Requirements: The Department, with the concurrence of the Board, may waive continuing education/in-service requirements for any two-year licensing period when a license holder submits documentation that circumstances justify such a waiver. Waivers may be requested and granted for the following reasons:

1. If in the military and assigned to a location where in-service education/continuing education is not available;
2. If living outside of the USA and in-service education/continuing education is not available; or
3. If serving as a missionary in a foreign country.

107-004.03 By an applicant seeking initial licensure in this state:

1. Current national certification/recertification or alternative method of competency assessment and, within the five years immediately preceding application:
 - a. Completion of an approved Clinical Nurse Specialist program; or
 - b. 2080 hours of practice as a Clinical Nurse Specialist in another state in a specific advanced practice role.
2. Applicants who do not meet these requirements must, within the two years immediately preceding application, demonstrate continuing competency by:
 - a. Successfully completing a reentry program that has been approved by the Board; or
 - b. Passing an approved certification examination within the two years immediately preceding application and successfully completing supervised practice as specified by the Board.

- (1) Applicants must obtain a temporary permit for the practice portion of the reentry program.

107-005 RENEWAL OF A LICENSE

107-005.01 Expiration: All Clinical Nurse Specialist licenses issued by the Department pursuant to the Act and these regulations expire on October 31 of each even-numbered year unless renewed as provided below.

107-005.02 Requirements: Before his/her license will be renewed a Clinical Nurse Specialist must:

1. Have a current registered nurse license in Nebraska or authority to practice as an RN in this state pursuant to the Nurse Licensure Compact;
2. Meet the requirements for continuing competency in 172 NAC 107-004; and
3. Pay the renewal fee.

A licensee may be subject to an audit to verify meeting the continuing competency requirements and will be required to submit required documentation if selected for audit.

107-005.03 Procedures

107-005.03A First Notice: On or before August 1 of even-numbered years, the Department will send a renewal notice and a notice of requirement for documentation of continuing competency by means of regular mail to each license holder at the license holder's last place of residence as noted in the records of the Department. It is the responsibility of the license holder prior to the renewal period to notify the Department of any name and/or address changes.

1. The renewal notice will specify:
 - a. The name of the license holder;
 - b. The license holder's last known address of record;
 - c. The license number;
 - d. The expiration date of the license;
 - e. The renewal fee as prescribed in 172 NAC 98-003;
 - f. The attestation of continuing competency;
 - g. The option to place the license on inactive status; and
 - h. The attestation of primary state of residence.
2. The license holder must apply for renewal by submitting to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. The license holder's Social Security number;

- d. Attestation of meeting the continuing competency requirements within the required time period or application for waiver of continuing competency; and
 - e. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).
3. If the license holder wishes to place her/his license on inactive status s/he must request that her/his license be placed on inactive status by submitting to the Department the renewal notice with a check in the box marked inactive.
 4. The Department will notify the license holder in writing of the acceptance or denial of the request to allow the license to be placed on inactive status.
 5. A license holder whose license is on inactive status must not practice in this state.

107-005.03B Second Notice: The Department will send to each license holder who fails to renew her/his license or place the license on inactive status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 107-005.03A that specifies:

1. That the license holder failed to pay the renewal fee;
2. That the license has expired;
3. That the Department will suspend action for 30 days following the date of expiration;
4. That the license holder is subject to an administrative penalty pursuant to 172 NAC 98-004 if s/he practices after the expiration date;
5. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency within that time, the license will be not be placed on inactive status; and
6. That upon failure to receive \$25 in addition to the renewal fee, and documentation of continuing competency, the license will be inactive.

107-005.03C The license holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's Social Security number;
4. Attestation by the license holder:
 - a. That s/he has not practiced in Nebraska since the expiration of her/his license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license;

5. Attestation of meeting the continuing competency requirements within the required time period or application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

107-005.03D If the license holder wishes to place her/his license on inactive status s/he must request that her/his license be placed on inactive status by submitting to the Department the renewal notice with a check in the box marked inactive.

107-005.03E The Department will notify the license holder in writing of the acceptance or denial of the request to allow the license to be placed on inactive status.

107-006 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

107-006.01 Eligibility

107-006.01A An individual whose credential has been previously:

1. Placed on inactive status;
2. Suspended or limited for disciplinary reasons; or
3. Voluntarily surrendered or voluntarily limited for an indefinite period of time

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

107-006.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

107-006.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 98-004; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

107-006.02 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have her/his credential moved

from inactive to active status upon proof to the Department that s/he meets the following requirements:

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

107-006.03 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

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

- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant; and
- f. Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee and the late fee; and
 3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

107-006.03A If an applicant has practiced while her/his credential was inactive the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 98-004;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

107-006.03B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

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

107-006.03C In either event pursuant to 172 NAC 107-006.03A or 107-006.03B, a notice and the opportunity for hearing will be given to the applicant.

107-006.03D The Department will act within 150 days on all completed applications.

107-006.04 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked;
2. Pay the reinstatement fee of \$75; and
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

107-006.05 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

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

- (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner; and
- (6) Any continuing competency activities;
2. The reinstatement fee of \$75; and
 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
- (1) If a petitioner has practiced after her/his credential was revoked the Department may assess an administrative penalty pursuant to 172 NAC 98-004 in which case a separate notice and opportunity for hearing will be sent to the petitioner.

- (2) If a petitioner has practiced after her/his credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 107-006.05G.

107-006.05A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department to investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§ 71-147 and 71-148;
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

107-006.05B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

107-006.05C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

107-006.05D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

107-006.05E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

107-006.05E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

107-006.05E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

107-006.05F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

107-006.05G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

107-006.05G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation. The application must include:
 - a. Name of the petitioner; and
 - b. Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority,

made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to the state Administrative Procedure Act.

107-006.05G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation. The application must include:
 - a. Name of the petitioner; and
 - b. Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that

the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner.
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to the state Administrative Procedure Act.

107-006.05G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to the state Administrative Procedure Act.

107-006.06 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time: Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. § 71-161.11 may be restored at the discretion of the Department.

107-006.06A An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

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

- [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active.
- (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant; and
- f. Any continuing competency activities; and
- g. Attestation:
- (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.

107-006.06B If an applicant has practiced while her/his credential was voluntarily surrendered, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 98-004;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

107-006.06C If an applicant has committed any other violation of the statutes and regulations governing the credential while her/his credential was voluntarily surrendered or limited, the Department may:

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

107-006.06D In either event pursuant to 172 NAC 107-006.06B or 107-006.06C, a notice and the opportunity for hearing will be given to the applicant.

107-006.06E The Department will act within 150 days on all completed applications.

107-006.07 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

107-006.07A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

107-006.07B If an individual has practiced while her/his credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an administrative penalty pursuant to 172 NAC 98-004.

107-006.08 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

107-007 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

107-007.01 The Department, upon the recommendation of the Board, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against a license for any of the acts or offenses set forth in Neb. Rev. Stat. §§ 71-147 and 71-148 of the Uniform Licensing Law.

107-007.02 The Department, upon the recommendation of the Board, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against a license for unprofessional conduct, which term includes but is not limited to:

1. Misappropriating medications, supplies, or personal items of a patient or agency;
2. Violating the confidentiality of information or knowledge concerning the patient;
3. Committing any act which endangers patient safety or welfare;
4. Failure to seek consultation and collaboration or failure to refer a patient when warranted by patient condition;

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5. Practicing as a clinical nurse specialist without a license issued under the Clinical Nurse Specialist Practice Act except as provided in Neb. Rev. Stat. 71-17,128;
6. Failure of a license holder, who is subject of a disciplinary investigation, to furnish the Board or its investigator with requested information or requested documents;
7. Holding himself or herself out as a clinical nurse specialist or using the abbreviation CNS or any other designation tending to imply that he or she is a clinical nurse specialist holding a license issued under the act if he or she does not hold such a license;
8. Falsification or misrepresentation of material facts in attempting to procure employment as an Clinical Nurse Specialist;
9. Intentional falsification of material facts in a material document connected with the practice of advanced practice nursing;
10. Kissing, fondling, touching or engaging in any other activities of a sexual nature with a patient; and
11. Violating any term of probation, condition, or limitation imposed on the license holder by the Department.