

Effective Date
June 23, 2012

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 137

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 137 LICENSURE OF PHYSICAL THERAPY

137-001 SCOPE AND AUTHORITY: These regulations govern the credentialing of Physical Therapy under Neb. Rev. Stat. §§ 38-2901 to 38-2929 and the Uniform Credentialing Act (UCA). Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, including cauterization.

137-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 38-2901 to 38-2929 known as the Physical Therapy Practice Act.

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.

Adequate Patient Records means legible records that contain at a minimum:

1. Sufficient information to identify the patient;
2. An evaluation of objective findings;
3. A plan of care;
4. A treatment record; and
5. A discharge plan.

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 Educational Program means a program for the education and training of physical therapists and physical therapist assistants approved by the Board based on the program's accreditation by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association (APTA) or by equivalent standards established by the Board.

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

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Audit means the selection of licensees or certificate holders for verification of satisfactory completion of continuing competency requirements during a specified time period.

Board means the Board of Physical Therapy.

CAPTE means the Commission on Accreditation in Physical Therapy Education.

Certificate means an authorization issued by the Department that gives a person the right to use a protected title that only a person who has met specific requirements may use.

Certification Examination means the National Physical Therapist Assistant Examination and Jurisprudence (NE LAW) Examination approved by the Department on the recommendation of the Board.

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.

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.

Continuing Competency Activities means those appropriate learning experiences physical therapists and physical therapist assistants undertake to expand their scope of knowledge beyond the basic preparation for the profession of physical therapy.

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.

Course of study means a program of instruction necessary to obtain a credential meeting the requirements set out for each profession in the appropriate practice act and rules and regulations and includes a college, a professional school, a vocational school, hours of training, or a program of instruction with a similar designation.

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.

Direct supervision means supervision in which the supervising practitioner is physically present and immediately available and does not include supervision provided by means of telecommunication.

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

FSBPT means Federation of State Boards of Physical Therapy.

General supervision means supervision either onsite or by means of telecommunication.

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

1. One academic semester hour is equal to 15 contact hours: An approved three credit hour course provides 45 contact hours of continuing education credit; and
2. One academic quarter hour is equal to ten contact hours: An approved three credit hour course provides 30 contact hours of continuing education credit.

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.

Intervention means a therapeutic procedure defined by the Current Procedural Terminology (CPT) manual of the American Medical Association.

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Jurisdiction of the United States means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any American territory.

Jurisprudence (NE LAW) Examination means the Nebraska Physical Therapy Law Examination covering the laws governing the practice of physical therapy in Nebraska. This examination covers: the Regulations relating to the Practice of Physical Therapy, 172 NAC 137; the Statutes relating to Physical Therapy, Neb. Rev. Stat. §§ 38-2901 to 38-2929; the Uniform Credentialing Act, Neb. Rev. Stat. §§ 38-101 to 38-1,140; and the Statutes Relating to Medical Records, §§ 71-8401 to 71-8407.

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.

Licensure Examination means the National Physical Therapist Examination and Jurisprudence (NE LAW) Examination approved by the Department on the recommendation of the Board.

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.)

Mobilization or Manual Therapy means a group of techniques comprising a continuum of skilled passive movements to the joints or related soft tissues, or both, throughout the normal physiological range of motion that are applied at varying speeds and amplitudes, without limitation.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 137.

Non-treatment-related tasks means clerical, housekeeping, facility maintenance, or patient transportation services related to the practice of physical therapy.

Official means received directly from the issuing agency.

Pattern of incompetent or negligent conduct means a continued course of incompetent or negligent conduct in performing the duties of the profession.

Physical therapy or Physiotherapy means:

1. Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations, and disabilities or other conditions related to health and movement and, through analysis of the evaluative process, developing a plan of therapeutic intervention and prognosis while assessing the ongoing effects of the intervention;

2. Alleviating impairment, functional limitation, or disabilities by designing, implementing, or modifying therapeutic interventions, which does not include the making of a medical diagnosis, but which may include any of the following:
 - a. Therapeutic exercise;
 - b. Functional training in home, community, or work integration or reintegration related to physical movement and mobility;
 - c. Therapeutic massage;
 - d. Mobilization or manual therapy;
 - e. Recommendation, application, and fabrication of assistive, adaptive, protective, and supportive devices and equipment;
 - f. Airway clearance techniques;
 - g. Integumentary protection techniques;
 - h. Non-surgical debridement and wound care;
 - i. Physical agents or modalities;
 - j. Mechanical and electrotherapeutic modalities; and
 - k. Patient-related instruction.
3. Purchasing, storing, and administering topical and aerosol medication in compliance with applicable rules and regulations of the Board of Pharmacy regarding the storage of such medication;
4. Reducing the risk of injury, impairment, functional limitation, or disability, including the promotion and maintenance of fitness, health, and wellness; and
5. Engaging in administration, consultation, education, and research.

Physical Therapist means a person licensed to practice physical therapy under the Act.

Physical Therapist Assistant means a person certified as a physical therapist assistant under the Act.

Physical Therapy Aide means a person who is trained under the direction of a physical therapist and who performs treatment-related and non-treatment-related tasks.

Plan of Care means plans of therapeutic intervention utilizing APTA guidelines.

Practice Site means the location where the physical therapist provides physical therapy services.

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

Satellite Office means a practice site operating without the presence of a physical therapist.

Semester Credit Hour means a semester credit that must include at a minimum:

1. 15 hours of lecture;
2. 30 hours of laboratory; or
3. 48 hours of clinical education.

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

Student means a person enrolled in an approved educational program.

Supervisory visit means an on-site visit by the supervising physical therapist in consultation with the physical therapist assistant. The on-site visit may occur in any clinical setting where the supervising physical therapist renders patient care.

Telecommunications means a land phone-line, cellular phone service, pager, video teleconference or any similar teleconferencing that will allow immediate response time. Facsimile and electronic mail are not defined as telecommunications due to inadequate response time.

Testing means standard methods and techniques used to gather data about a patient. Testing includes surface electromyography and, subject to approval of the Board, fine wire electromyography. Testing excludes diagnostic needle electromyography.

Treatment-related tasks means activities related to the practice of physical therapy that do not require the clinical decision making of a physical therapist or the clinical problem solving of a physical therapist assistant.

137-003 INITIAL CREDENTIAL FOR A PHYSICAL THERAPIST LICENSE

137-003.01 Qualifications: To receive a credential to practice as a physical therapist, 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 Information: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For the purposes of the Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States, who is eligible for a credential under the Uniform Credential Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education:
 - a. Have graduated from an approved physical therapist educational program; or
 - b. Have met the requirements of training as a physical therapist in a foreign country and English proficiency requirements pursuant to 172 NAC137-004.
4. Examination:
 - a. Pass the licensure examination with a scaled score that is greater than or equal to 600 on the National Physical Therapist Examination; and
 - b. Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.
5. License in Another Jurisdiction and is Currently Practicing: An applicant for a license to practice as a physical therapist on the basis of licensure in another jurisdiction and meets the qualifications listed in 172 NAC 137-003.01 items 1, 2, 3, and 4.

6. License in Another Jurisdiction and has not Practiced Within the Three Years Preceding the Application: The applicant must meet the qualifications listed in 172 NAC 137-003.01 items 1, 2, 3, and 4 and the following:
 - a. Retake the licensure examination and pass with a scaled score that is greater than or equal to 600 on the National Physical Therapist Examination; and
 - b. Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.
7. Passed the Licensure Examination But is Not Practicing: If an applicant meets the requirements as listed in 172 NAC 137-003.01 items 1, 2, 3, 4 and passed the licensure examination more than three years prior to the time of application for licensure; s/he will need to:
 - a. Retake the licensure examination and pass with a scaled score that is greater than or equal to 600 on the National Physical Therapist Examination; and
 - b. Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.

137-003.02 Application: To apply for a credential to practice as a physical therapist, 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);
 - (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. Practice Before Application: The applicant must state:
 - (1) That s/he has not practiced as a physical therapist in Nebraska before submitting the application; or
 - (2) If s/he has practiced as a physical therapist 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;

- c. Attestation: The applicant must attest that:
- (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 137-015 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For the purposes of Neb. Rev. Stat. §38-129;
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credential Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
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 good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental services in Nebraska or in another jurisdiction, the applicant must submit the name of 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;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing 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:
 - (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For the purposes of Neb. Rev. Stat. §38-129; 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. Documentation of education, including:
 - (1) Name and date of diploma/degree awarded; and
 - (2) Name of school, college, university that awarded the diploma/degree.
 - f. Documentation of examination, including:
 - (1) Name of examination;
 - (2) Date of examination; and
 - (3) Rating/grade received; and
 - g. Documentation that the applicant:
 - (1) Requested that the examination score for the National Physical Therapist Examination be sent directly to the Department from the appropriate examination service or State Board Office;
 - (2) Submitted a completed request for special accommodations, if special testing accommodations are needed by the applicant; and
 - (3) Submitted any other documentation as requested by the Board/Department; and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

137-003.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

137-003.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

137-003.04 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 137-015, 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 for Administrative Hearings.

137-003.05 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.

137-003.06 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 137-018 or such other action as provided in the statutes and regulations governing the credential.

137-003.07 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.

137-003.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

137-003.09 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.

137-004 INITIAL CREDENTIAL FOR A PHYSICAL THERAPIST LICENSE BASED ON TRAINING AS A PHYSICAL THERAPIST IN A FOREIGN COUNTRY

137-004.01 Qualifications: An applicant for a license to practice physical therapy on the basis of training as a physical therapist in a foreign country must have met the qualifications outlined in 172 NAC 137-003.01, items 1 through 4; and items 5 through 7, whichever is applicable. The applicant must also meet the following requirements:

1. Have completed a program of professional instruction that is substantially equivalent to an approved educational program. A substantially equivalent program of professional instruction is one that consists of those components specified in one of the following Federation of State Boards of Physical Therapy (FSBPT) Coursework tools. The appropriate FSBPT Coursework Tool to be used by the credentialing agency will be determined by the year the foreign trained physical therapist graduated from his/her foreign program of professional instruction. The credit hours required for general education may be obtained through the College Level Examination Program (CLEP).
 - a. Coursework Tool For Foreign Educated Physical Therapists Who Graduated before 1978 CWT 1.
 - b. Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1978 to 1991 CWT 2.
 - c. Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1992 to 1997 CWT3.
 - d. Coursework Tool For Foreign Educated Physical Therapists who Graduated from 1998 to June 30, 2009 CWT 4.
 - e. Coursework Tool For Foreign Educated Physical Therapists who Graduated after June 30, 2009 CWT 5.
2. Have proficiency in the English language:
 - a. The following applicants are deemed to be proficient in the English Language:

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- (1) Graduates of physical therapy programs from Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom, and the United States; and
 - (2) Graduates from programs accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE);
- b. Obtain a passing score on one of the following examinations administered by Educational Testing Service which measures proficiency in the English language:
- (1) Test of English as a Foreign Language (TOEFL), paper pencil format, with a minimum passing score of 560; Test of Written English (TWE), paper pencil format, with a minimum passing score of 4.5; and Test of Spoken English (TSE), paper pencil format with a minimum passing score of 50; or
 - (2) Internet Based English Language Proficiency Test, TOEFL iBT with the minimum passing scores as follows:

Reading Comprehension	21
Listening Comprehension	18
Writing Comprehension	24
Speaking Comprehension	26
Total score	89; or
- c. Hold an official U.S. Citizenship and Immigration Services' Health Care Worker Certification issued no more than five years immediately preceding the date of the application by one of the following agencies.
- (1) Foreign Credentialing Commission of Physical Therapy (FCCPT); or
 - (2) Commission on Graduates of Foreign Nursing Schools (CGFNS).
3. Submit to the Department:
- a. Documentation of the applicant's educational credentials prepared by one of the following accrediting agencies:
 - (1) International Consultants of Delaware, Inc.;
 - (2) International Credentialing Association, Inc.;
 - (3) International Education Research Foundation, Inc.; or
 - (4) Foreign Credentialing Commission on Physical Therapy.

The credentialing agency must base their evaluation of the applicant's program of professional instruction on the requirements set out in 172 NAC 137-004, item 1;
 - b. An official transcript(s) of the training the physical therapist completed in a foreign country; and
 - c. One of the following documents that proves proficiency in the English language:

- (1) Proof of graduation from a physical therapy program pursuant to 172 NAC 137-004 item 2a;
- (2) Official documentation from the Educational Testing Service showing the passing scores on the examination outlined in 172 NAC 137-004 item 2b; or
- (3) Official U.S. Citizenship and Immigration Services' Health Care Worker Certification issued no more than five years immediately preceding the date of the application.

137-004.02 Application: To apply for a credential to practice as a physical therapist, 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);
 - (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. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced as a physical therapist in Nebraska before submitting the application; or
- (2) If s/he has practiced as a physical therapist 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;

c. Attestation: The applicant must attest that:

- (1) S/he has read the application or has had the application read to him/her;
- (2) All statements on the application are true and complete;
- (3) S/he is of good character;

- (4) S/he has not committed any act that would be grounds for denial under 172 NAC 137-015 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For the purposes of Neb. Rev. Stat. §38-129;
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credential Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
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 good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental 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;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing 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:
 - (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For the purposes of Neb. Rev. Stat. §38-129; 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. Documentation of education, including:
 - (1) Name and date of diploma/degree awarded; and

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- (2) Name of school, college, university that awarded the diploma/degree.
 - f. Documentation of examination, including:
 - (1) Name of examination;
 - (2) Date of examination; and
 - (3) Rating/grade received; and
 - g. Documentation that the applicant:
 - (1) Requested that the examination score for the National Physical Therapist Examination and the Jurisprudence (NE LAW) Examination be sent directly to the Department from the appropriate examination service or State Board Office if applicable;
 - (2) Submitted a completed request for special accommodations, if special testing accommodations are needed by the applicant; and
 - (3) Submitted any other documentation as requested by the Board/Department; and
3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

137-004.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

137-004.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

137-004.04 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 137-015, 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 for Administrative Hearings.

137-004.05 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.

137-004.06 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 137-018 or such other action as provided in the statutes and regulations governing the credential.

137-004.07 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.

137-004.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

137-004.09 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.

137-005 INITIAL CREDENTIAL FOR A PHYSICAL THERAPIST ASSISTANT CERTIFICATE:

137-005.01 Qualifications: To receive a credential to practice as a physical therapist assistant, 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 Information: For purposes of Neb. Rev. Stat. §§4-108 to 4-114, a citizen of the United States or qualified alien under the Federal Immigration and Nationality Act. For the purposes of the Neb. Rev. Stat. §38-129, a citizen of the United States, an alien lawfully admitted into the United States, who is eligible for a credential under the Uniform Credential Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
3. Education:
 - a. Have graduated from an approved physical therapist assistant educational program.
4. Examination:
 - a. Pass the certification examination with a scaled score that is greater than or equal to 600 on the National Physical Therapist Assistant Examination; and
 - b. Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.
5. Credential As A Physical Therapist Assistant in Another Jurisdiction and is Currently Practicing: An applicant for a certification to practice as a physical therapist assistant on the basis of licensure in another jurisdiction and meets the qualifications listed in 172 NAC 137-005.01 items 1, 2, 3, and 4.

6. Credential As a Physical Therapist Assistant in Another Jurisdiction and Has Not Practiced Within the Three Years Preceding the Application: The applicant must meet the qualifications listed in 172 NAC 137-005.01 items 1, 2, 3, and 4 and the following:
 - (1) Retake the certification examination and pass with a scaled score that is greater than or equal to 600 on the National Physical Therapist Assistant Examination; and
 - (2) Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.

7. Passed the Certification Examination But is Not Practicing: If an applicant meets the requirements as listed in 172 NAC 137-005.01 items 1, 2, 3, 4 and passed the certification examination more than three years prior to the time of application for certification; s/he will need to:
 - (1) Retake the certification examination and pass with a scaled score that is greater than or equal to 600 on the National Physical Therapist Assistant Examination; and
 - (2) Pass the Jurisprudence (NE LAW) Examination with a scaled score that is greater than or equal to 600.

137-005.02 Application: To apply for a credential to practice as a physical therapist assistant, 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);
 - (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. Practice Before Application: The applicant must state:

- (1) That s/he has not practiced as a physical therapist assistant in Nebraska before submitting the application; or
 - (2) If s/he has practiced as a physical therapist assistant 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;
- c. Attestation: The applicant must attest that:
 - (1) S/he has read the application or has had the application read to him/her;
 - (2) All statements on the application are true and complete;
 - (3) S/he is of good character;
 - (4) S/he has not committed any act that would be grounds for denial under 172 NAC 137-015 or if an act(s) was committed, provide an explanation of all such acts; and
 - (5) S/he is:
 - (a) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (b) For the purposes of Neb. Rev. Stat. §38-129;
 - (i) A citizen of the United States;
 - (ii) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credential Act; or
 - (iii) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.
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 good character, including:
 - (1) Other Credential Information: If the applicant holds a credential to provide health services, health-related services, or environmental 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;
 - (3) Denial: If the applicant was denied a credential or denied the right to take a credentialing 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:
- (1) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (2) For the purposes of Neb. Rev. Stat. §38-129; 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. Documentation of education, including:
 - (1) Name and date of diploma/degree awarded; and
 - (2) Name of school, college, university that awarded the diploma/degree.
- f. Documentation of examination, including:
 - (1) Name of examination;
 - (2) Date of examination; and
 - (3) Rating/grade received; and
- g. Documentation that the applicant:
 - (1) Requested that the examination score for the National Physical Therapist Examination and the Jurisprudence (NE LAW) Examination be sent directly to the Department from the appropriate examination service or State Board office;
 - (2) Submitted a completed request for special accommodations, if special testing accommodations are needed by the applicant; and
 - (3) Submitted any other documentation as requested by the Board/Department; and

3. Fee: The applicant must submit the required license fee along with the application and all required documentation.

137-005.02A Prorated Fee: When a credential will expire within 180 days after its initial issuance date and the initial credentialing fee is \$25 or more, the Department will collect \$25 or one-fourth of the initial credentialing fee, whichever is greater, for the initial credential, and the credential will be valid until the next subsequent renewal date.

137-005.03 Department Review: The Department will act within 150 days upon all completed applications for initial credentialing.

137-005.04 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 137-015, 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 for Administrative Hearings.

137-005.05 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.

137-005.06 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 137-018 or such other action as provided in the statutes and regulations governing the credential.

137-005.07 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.

137-005.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

137-005.09 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.

137-006 REQUIREMENTS TO PERFORM PHYSICAL THERAPY SERVICES AS A CERTIFIED PHYSICAL THERAPIST ASSISTANT: A physical therapist assistant must be certified by the Department prior to performing physical therapy services.

137-006.01 General Supervision: A physical therapist assistant is authorized to perform physical therapy services under the general supervision of a physical therapist. A physical therapist assistant being directed to perform physical therapy services:

1. Must notify the supervising physical therapist of any change from routine responses that occur during or prior to treatment warranting a reevaluation of or a change in the patient treatment plan;
2. May document physical therapy services provided by the physical therapist assistant without the signature of the supervising physical therapist;
3. May act as a clinical instructor for physical therapist assistant students in an approved educational program; and
4. May assign the supervision of the physical therapist assistant student to another physical therapist assistant or physical therapist during the scheduled or non-scheduled periods of absence from the clinical setting.

137-006.02 Physical Therapy Assistant Student: All patient care services delivered by a physical therapist assistant student, working under the clinical instruction of a physical

therapist assistant must be rendered under the direct supervision of a supervising physical therapist or physical therapist assistant.

137-006.03 Prohibited Services: A certified physical therapist assistant is not authorized to perform any of the following:

1. Interpretation of physician referrals;
2. Development of a plan of care;
3. Initial evaluation or reevaluation of patients;
4. Readjustment of a plan of care without consultation with the supervising physical therapist; or
5. Discharge planning for patients.

137-007 FINE-WIRE ELECTROMYOGRAPHY: A physical therapist who wishes to perform tissue penetration for the purpose of fine-wire electromyography must meet one of the following requirements.

137-007.01 Requirements: A physical therapist must:

1. Complete pre-service or in-service training. The pre-service or in-service training must include:
 - a. Pertinent anatomy and physiology;
 - b. Choice and operation of equipment;
 - c. Knowledge of test indications;
 - d. Proper technique of tissue penetration;
 - e. Sterile methods, hazards, and complications;
 - f. Post test care;
 - g. Knowledge in test interpretation; and
 - h. Documentation of ten kinesiology electromyography examinations in an educational environment; or
2. Hold authorization from another state to perform fine-wire electromyography with substantially equivalent requirements; or
3. Hold a certification from the American Board of Clinical Specialists in the area of Clinical Electrophysiology; and
4. Maintain documentation of acceptable evidence of meeting one of the requirements specified in 172 NAC 137-007.01. Successful completion of the course must be maintained by the licensee and available upon request by the Board or Department. Documentation must be in the form of one of the following:
 - a. A certificate of completion of pre-service or in-service training;
 - b. A certificate from another state authorizing fine-wire electromyography or;
 - c. A copy of certification from the American Board of Clinical Specialists in the area of Clinical Electrophysiology.

137-008 REQUIREMENTS FOR SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS: A physical therapist supervising a physical therapist assistant must meet the following requirements of supervision:

1. A physical therapist may provide general supervision for no more than two physical therapist assistants at any point in time during the physical therapist's work day;

2. All physical therapy services performed by the physical therapist assistant are under the general supervision of a supervising physical therapist: General supervision as defined in 172 NAC 137-002 means supervision either onsite or by means of telecommunication; and
 - a. All telecommunications must be documented in the medical records of patients under care of the supervising physical therapist; and
 - b. When the supervising physical therapist is unavailable s/he must transfer responsibility of all patient care to another qualified physical therapist who will assume responsibility for all patient care including those being rendered by the physical therapist assistant under general supervision; and
3. The supervising physical therapist maintains primary responsibility for all patient care services including those rendered by a physical therapist assistant under general supervision;
4. A supervising physical therapist must re-evaluate or re-examine each patient and the plan of care of the patient receiving physical therapy services from a physical therapist assistant a minimum of least one time every 30 calendar days under general supervision. More frequent re-evaluations or re-examinations by the supervising physical therapist may be warranted dependent upon the following parameters:
 - a. Patient complexity and acuity;
 - b. Upon request by the physical therapist assistant;
 - c. When a change in treatment plan is warranted;
 - d. Any significant change in the medical status of the patient; and
 - e. Upon request by the patient; and
5. The supervising physical therapist must provide final documentation for discharge of patient care being rendered by a physical therapist assistant under general supervision, including patient response to treatment at the time of discharge; and
6. The physical therapist assistant may participate in the discharge process for patient care by providing subjective and objective patient information to the supervising physical therapist.

137-008.01 General Supervision of the Physical Therapist Assistant in Satellite Clinics: A physical therapist may supervise a physical therapist assistant in a satellite clinic under general supervision. Satellite clinics include but are not limited to:

1. Rehabilitation facilities;
2. Acute care facilities;
3. Skilled nursing facilities;
4. Nursing homes;
5. Schools-based settings;
6. Outpatient clinics;
7. Home health; and
8. Client preventative facilities.

137-008.01A When a physical therapist assistant is rendering physical therapy services in a satellite clinic the following requirements apply as well as 172 NAC 137-008, items 1-6:

1. A supervisory visit with the physical therapist will be made every 30 days or at a higher frequency if warranted. More frequent re-evaluations or re-

- examinations by the supervising physical therapist may be warranted dependent upon the following parameters:
- a. Patient complexity and acuity;
 - b. Upon request by the physical therapist assistant;
 - c. When a change in treatment plan is warranted;
 - d. Any significant change in the medical status of the patient; and
 - e. Upon request by the patient; and
2. A supervisory visit as defined in 172 NAC 137-002 is an on-site visit by the supervising physical therapist in consultation with the physical therapist assistant. The on-site visit may occur in any clinical setting where the supervising physical therapist renders patient care. The on-site visit must include:
 - a. Direct patient contact for the purpose of reevaluation or re-examination of patient status;
 - b. A review of the plan of care with revision and or termination of treatment as warranted; and
 - c. A re-assessment for utilization of outside resources for physical therapy services; and
 3. The supervising physical therapist must provide final documentation for discharge of patient care being rendered by a physical therapist assistant in a satellite clinic under general supervision, including patient response to treatment at the time of discharge. The physical therapist assistant may participate in the discharge process for patient care by providing subjective and objective patient information to the supervising physical therapist; and
 4. A physical therapist is not authorized to establish a satellite clinic for the purpose of rendering physical therapy services staffed solely by a physical therapist assistant.

137-008.02 Requirements for the Assignment of Services to Physical Therapist Assistants: It is the responsibility of the supervising physical therapist to determine which tasks require the clinical reasoning expertise of the physical therapist and which tasks can be safely assigned to the physical therapist assistant under general supervision.

137-008.02A Assignment of Services- Patient or Client Management: Assignment of services related to patient or client management is dependent upon the clinical practice setting in addition to patient complexity and acuity. Clinical practice settings include but are not limited to:

1. Rehabilitation facilities;
2. Acute care facilities;
3. Skilled nursing facilities;
4. Nursing homes;
5. School-based settings;
6. Out-patient clinics;
7. Home health;
8. Industrial rehabilitation facilities; and
9. Client preventative services.

137-008.02B Assignment of Patient or Client Services to a Physical Therapist Assistant: Patient complexity and acuity must also be considered when a physical therapist assigns patient or client services to a physical therapist assistant. The supervising physical therapist must exercise professional judgment when determining what services can or cannot be assigned to the physical therapist assistant.

137-008.02B1 Factors in Direct Patient Care: The following factors inherent in direct patient care must be considered by the supervising physical therapist when assigning services, and must be commensurate with the education, training, and experience of the physical therapist assistant under general supervision. These factors apply to all clinical settings where physical therapy services are rendered by a physical therapist assistant under general supervision:

1. Predictability of action - How confident is the physical therapist assistant in predicting consequences of action related to patient care?;
2. Stability of the environment - How confident is the physical therapist assistant in clinical problem solving issues related to change in patient status?;
3. Observability of patient status – How easy is it to observe or perceive relevant clinical indicators of patient status?;
4. Ambiguity of patient status – How difficult is it to interpret phenomena related to change in relevant clinical indicators?; and
5. Criticality of patient treatment – What consequences exist for a poor choice in patient intervention?

137-008.03 Responsibility of the Supervising Physical Therapist: For each patient under his/her care, a physical therapist must:

1. Be responsible for managing all aspects of physical therapy services provided to the patient and assume legal liability for physical therapy and related services provided under his/her supervision;
2. Provide initial evaluation and documentation of the evaluation;
3. Provide periodic reevaluation and documentation of the reevaluation;
4. Provide documentation for discharge, including the patient's response to therapeutic intervention at the time of discharge;
5. Be responsible for accurate documentation and billing for services provided; and
6. On each date physical therapy services are provided to a patient, a physical therapist must:
 - a. Provide all therapeutic interventions that require the expertise of a physical therapist for example, sharp wound debridement and low amplitude high velocity manual therapy techniques; and
 - b. Determine the appropriate use of physical therapist assistants or physical therapy aides.

137-009 USE OF UNLICENSED PERSONNEL: Unlicensed individuals may provide the following services.

137-009.01 Physical Therapy Aides: A physical therapy aide trained under the direction of a physical therapist may perform non-treatment and treatment related tasks under the

supervision of a physical therapist or a physical therapist assistant as specified below.

1. Non-Treatment Related Tasks - General Supervision: Under the general supervision of a physical therapist or physical therapy assistant a physical therapy aide may perform non-treatment related tasks under general supervision including clerical, housekeeping, facility maintenance or patient transportation services related to the practice of physical therapy such as:
 - a. Transporting patients;
 - b. Assisting a patient in preparation for treatment;
 - c. Removing and applying assistive and supportive devices; and
 - d. Other non-treatment related tasks.

2. Treatment Related Tasks - Direct Supervision: Under the direct supervision of a physical therapist or physical therapist assistant, a physical therapy aide may assist the physical therapist or physical therapist assistant with treatment related tasks. An aide may perform treatment related tasks when treatment is initiated by a physical therapist or physical therapist assistant and only under direct supervision. A physical therapy aide:
 - a. Must not solely provide an intervention;
 - b. Must receive training from a physical therapist for all treatment related tasks that the aide will perform;
 - c. Must receive supervision, orders, and directions only from a physical therapist or physical therapist assistant; and
 - d. Must be knowledgeable of the preparation of equipment and accessories and all other operational activities relevant to equipment and accessories necessary for treatment.

137-009.02 School Personnel and Personal Assistance Services: An unlicensed person employed by a school district, educational service unit, or other public or private educational institution or entity serving pre-kindergarten through twelfth grade students who is providing personal assistance services will not be construed to be engaged in the unauthorized practice of physical therapy. Personal assistance services include:

1. Mobility and transfer activities such as assisting with ambulation with and without aids;
2. Positioning in adaptive equipment;
3. Application of braces;
4. Encouraging active range-of-motion exercises;
5. Assisting with passive range-of-motion exercises;
6. Assisting with transfers with or without mechanical devices; and
7. Other personal services based on individual needs as are suitable to providing an appropriate educational program.

137-010 LIABILITY FOR NEGLIGENCE: The physical therapist must be responsible for managing all aspects of physical therapy services provided to the patient and assume legal liability for physical therapy and related services provided under his/her supervision.

137-011 EXAMINATION ELIGIBILITY

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137-011.01 Physical Therapist Licensure Examination: To be eligible to take the licensure examination, an applicant must have met all the requirements for licensure pursuant to 172 NAC 137-003 or 137-004 except passing the licensure examination.

137-011.02 Physical Therapist Assistant Certification Examination: To be eligible to take the certification examination, an applicant must have met all the requirements for certification pursuant to 172 NAC 137-005 except passing the certification examination.

137-011.03 Jurisprudence (NE LAW) Examination for Applicants Applying Based on a License or Certificate in Another Jurisdiction: To be eligible to take the jurisprudence (NE LAW) examination, an applicant must have met all requirements for licensure or certification that are pursuant to 172 NAC 137-003, 137-004, or 137-005 except passing the jurisprudence (NE LAW) examination.

137-012 EXAMINATION PROCEDURES

137-012.01 Physical Therapist Licensure Examination: The Department will notify an applicant in writing of the licensure examination results within 60 days after notification of the examination scores.

137-012.02 Physical Therapist Assistant Certification Examination: The Department will notify an applicant in writing of the certification examination results within 60 days after notification of the examination scores.

137-012.03 Re-examination

137-012.03A An applicant who fails the licensure examination may apply for re-examination by submitting a new application pursuant to 172 NAC 137-003 or 137-004.

137-012.03B An applicant who fails the certification examination may apply for re-examination by submitting a new application pursuant to 172 NAC 137-005.

137-012.03C The Department will notify an applicant in writing of the re-examination results within 60 days after notification of the examination scores.

137-013 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSURE AND CERTIFICATION: Each person holding an active credential must, on or before the date of expiration of the credential, comply with the continuing competency requirements for his/her profession, unless the requirements are waived in accordance with 172 NAC 137-014.03 and 137-014.04. Each credentialed individual is responsible for maintaining certificates or records of continuing competency activities.

137-013.01 General Requirements for Renewal of Licensure or Certification: On or before November 1 of each odd-numbered year, each physical therapist and each physical therapist assistant with an active credential must:

1. Complete acceptable continuing education hours to renew a license or certificate during the preceding 24 month period:
 - a. Each physical therapist must complete 20 hours of continuing education and each physical therapist assistant must complete ten hours of continuing education during the preceding 24 month period; and
 - b. Each physical therapist and each physical therapist assistant must successfully complete the Nebraska Law Tutorial: The Nebraska Law Tutorial is a free, online open book tutorial developed by the Board for the purpose of assuring that all physical therapists and physical therapist assistants understand the Physical Therapy Practice Act and these regulations, 172 NAC 137. Successful completion means a score of 100%. Each licensee or certificate holder is required to maintain a copy of the Nebraska Law Tutorial documentation; and

2. Be responsible for:
 - a. Maintaining documentation of attendance at or participation in continuing competency activities until the next renewal period. Documentation of attendance must include the following:
 - (1) A signed certificate;
 - (2) The course brochure or course outline; and
 - (3) Completed Nebraska Law Tutorial documentation; and
 - b. Maintaining documentation of presentation of a continuing education program if the licensee is presenting a program. Documentation must include the following:
 - (1) The course outline; and
 - (2) The course brochure; or
 - (3) A statement of the instructor's qualifications to teach the course, unless the qualifications are included in the brochure.

137-013.02 Acceptable Continuing Education: In order for a learning experience to be accepted for the renewal or reinstatement of a license or certificate, the learning experience must relate to physical therapy and it may focus on research, treatment, documentation, management, or education. The Board does not pre-approve continuing education programs but may accept as continuing education for renewal of a license or certificate or reinstatement of a license or certificate the following learning experiences to include:

1. Programs at State and National meetings which relate to the theory or clinical application of theory pertaining to the practice of physical therapy for example, a meeting of the Nebraska Physical Therapy Association and/or the American Physical Therapy Association; or

2. Formal education courses or presentations in which:
 - a. The courses or presentations are formally organized and planned instructional experiences that have:
 - (1) A date;

- (2) Location;
 - (3) Course title;
 - (4) Number of contact hours;
 - (5) A signed certificate of attendance; and
 - (6) Are open to all licensees and certificate holders;
 - b. The objectives relate to the theory or clinical application of theory pertaining to the practice of physical therapy; and
 - c. The instructor has specialized experience or training to meet the objectives of the course;
3. University sponsored courses relating to the theory or clinical application of theory pertaining to the practice of physical therapy;
 4. Home study relating to the theory or clinical application of theory pertaining to the practice of physical therapy: A Licensee or certificate holder may complete a maximum of ten hours of continuing education by home study each 24 month renewal period. The home study program must have a testing mechanism;
 5. Management courses which relate to the theory or clinical application of theory pertaining to the practice of physical therapy. A Licensee or certificate holder may complete a maximum of four hours of continuing education utilizing management courses each 24 month renewal period;
 6. Videotapes or satellite programs that meet the following criteria:
 - a. There is a sponsoring group or agency;
 - b. There is a facilitator or program official present each time the videotapes or satellite programs are presented to monitor attendance of licensees;
 - c. Any program official who wishes to receive credit for a videotape or satellite program may not self-monitor attendance; and
 - d. The objectives of the program must relate to the theory or clinical application of theory pertaining to the practice of physical therapy. A Licensee or certificate holder may complete a maximum of ten hours of continuing education utilizing videotape presentations or satellite programs each 24 month renewal period;
 7. Completion and publication of a scientific review of a research paper for a professionally recognized database as approved by the Board for example, APTA *Hooked on Evidence*, Physiotherapy Evidence Database (PEDro). A Licensee or certificate holder will be awarded a maximum of five hours each 24 month period. One contact hour will be awarded for each article published. Documentation must include a certificate of completion or a copy of the published review;
 8. Participation in research or other scholarly activities that result in professional publication or acceptance for publication that relates to physical therapy and is intended for an audience of health care professionals: A Licensees or certificate holders will be awarded a maximum of ten hours each 24 month period. These include:

- a. Primary author of an article in a non-refereed journal. Earn five hours per article: Documentation required – a copy of the article;
 - b. Primary or secondary author of an article in a refereed journal. Earn ten hours per article: Documentation required – a copy of the article;
 - c. Primary, secondary or contributing author of a published textbook. Earn ten hours per book: Documentation required – A copy of the title page;
 - d. Primary or secondary author of a poster presentation. Five hours per presentation: Documentation required – Letter of acknowledgement;
 - e. Primary author of a home study course. Earn five hours per course: Documentation - Letter of approval;
9. Completion of the Jurisprudence (NE LAW) Examination: Five hours of continuing education will be awarded for passing the Jurisprudence (NE LAW) examination with a scaled score that is greater than or equal to 600;
10. Completion of a residency and/or fellowship program approved by the American Physical Therapy Association: A Licensee or certificate holder will be awarded one hour for each month of participation. Documentation required – Letter verifying participation from the agency providing the program. The dates of participation must be included in the letter;
11. Obtaining the initial Certified Strength and Conditioning Specialist (CSCS) certificate issued by the National Strength and Conditioning Association (NSCA). Four hours of continuing education will be awarded for the Certified Strength and Conditioning Specialist (CSCS) certificate during the twenty hour months prior to the reinstatement application or license expiration date; or
12. Direct supervision of students for clinical education:
- a. The physical therapist or physical therapist assistant who is supervising the student must be an American Physical Therapy Association Credentialed Clinical Instructor of record at the Basic Level;
 - b. The student being supervised must be from an accredited physical therapist or physical therapist assistant program and participating in a full-time clinical experience of varying length. Full time is defined as clinical experiences with durations of approximately 40 hours per week ranging from 1-18 weeks;
 - c. One hour will be awarded for every 160 contact hours of supervision of full-time physical therapist student or physical therapist assistant student;
 - d. A maximum of eight hours for physical therapist and four hours for physical therapist assistant per 24 month renewal period may be awarded to each individual for supervision of a physical therapist student or physical therapist assistant student; and
 - e. The physical therapist or physical therapist assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.

137-013.02A Two hours of credit will be awarded for a current Cardiopulmonary Resuscitation (CPR) certificate.

137-013.02B One hour of credit will be awarded for each hour of attendance. Credit will not be awarded for breaks or meals.

137-013.02C One hour credit will be awarded for each hour of scientific presentation by a licensee or certificate holder acting as an essayist or lecturer to licensed physical therapists and physical therapist assistants if the program relates to the theory or clinical application of theory pertaining to physical therapy: A licensee or certificate holder may receive continuing education credit for only the initial presentation during a renewal period, with a maximum of four hours of continuing education for presentations in a 24 month renewal period.

137-013.03 Non-acceptable Continuing Education: Continuing education credit will not be awarded for programs where the subject matter does not relate to the theory or clinical application of theory pertaining to the practice of physical therapy, including but not limited to:

1. Business communications and operations;
2. Medical terminology;
3. Courses which deal with personal self-improvement, financial gain, or career options;
4. Courses designed for lay persons.
5. Teaching unlicensed or uncertified persons;
6. Courses less than 60 minutes in duration;
7. Physical therapy on-the-job training; or
8. Physical therapy orientation programs or staff meetings, including:
 - a. Orientation to new policies;
 - b. Procedures;
 - c. Equipment;
 - d. Forms;
 - e. Responsibilities; or
 - f. Services; or
9. Presentations made by students; or
10. Participation in or attendance at case conferences, grand rounds, or informal presentations.

137-014 RENEWAL: An individual who wants to renew his/her physical therapist or physical therapist assistant credential must request renewal as specified in 172 NAC 137-014.02. All physical therapist and physical therapist assistant credentials issued by the Department will expire on November 1 of each odd-numbered year.

137-014.01 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.

137-014.02 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;
 - c. Must attest that s/he:
 - (1) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 137-013 or has requested a waiver if s/he meets the requirements of 172 NAC 137-014.04 and/or 137-014.03;
 - (3) Has not, since the last renewal of the credential, committed any act which would be grounds for action against a credential as specified in 172 NAC 137-13.01, or if an act(s) was committed, provide an explanation of all such acts; and
 - (4) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (5) For the purposes of Neb. Rev. Stat. §38-129; 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.

2. Documentation: The applicant must submit the following documentation with the application:
 - a. Alien or Non-Immigrant: Evidence of lawful presence, and/or immigration status 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 Information: If the applicant holds a credential to provide health services, health-related services, or environmental 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 a credentialing examination, an explanation of the basis for the denial;
 - e. Conviction Information: If the applicant has been convicted of a felony or misdemeanor since his/her last renewal or during the time period since initial credentialing if such occurred within the previous two years, the applicant must submit to the Department:
 - (1) A list of any misdemeanor or felony convictions;
 - (2) A copy of the 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;
3. The renewal fee according to 172 NAC 2.

137-014.03 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 137-016, 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.

137-014.04 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.

137-014.04A The Department may waive continuing competency requirements, in whole or in part, upon submission by a credential holder of documentation that circumstances beyond his/her control have prevented completion of these requirements. These circumstances may include:

1. The licensee or certificate holder has submitted proof that s/he was suffering from a serious or disabling illness or physical disability which prevented completion of the continuing competency requirements during the 24 months immediately preceding the license renewal date. The proof submitted by the licensee or certificate holder must include a statement from a treating physician and indicate:
 - a. That the licensee or certificate holder was injured or ill;
 - b. The duration of the illness or injury and of the recovery period; and
 - c. That the license or certificate holder was unable to obtain or complete the required number of continuing education hours during that period.

137-014.05 The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that circumstances beyond the applicant's control prevented completion of such requirements.

137-014.05A When the Department determines to deny an application for waiver of continuing competency requirements, it will send to the applicant by certified mail to the last name and address of record in the Department, a notice setting forth the reason for the denial determination.

137-014.05A1 The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal. The appeal

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will be conducted pursuant to Neb. Rev. Stat. §§ 84-901 to 84-902, Administrative Procedure Act and 184 NAC 1 of the Rules of Practice and Procedure for the Department.

137-014.05A2 The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.

137-014.05B When the Department determines to grant a waiver of continuing competency requirements, the applicant will be notified within 30 days of receipt of the application.

137-014.06 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.

137-014.06A 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.

137-014.06B 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.

137-014.06C Acceptable documentation that the credential holder has met the continuing competency requirements include:

- (1) The course outline; and
- (2) The course brochure; or
- (3) A statement of the instructor's qualifications to teach the course, unless the qualifications are included in the brochure; and
- (4) Nebraska Law Tutorial documentation with a score of 100%

137-014.06D 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.

137-014.06E The Department will notify the credential holder upon satisfactory completion of the audit.

137-014.06F 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.

137-014.06G 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.

137-014.07 Department Review: The Department will act within 150 days upon all completed applications for renewal.

137-014.07A False Information: The Department may refuse to renew a credential for falsification of any information submitted for renewal of a credential. The refusal will be made according to 184 NAC 1, the Department's Rules of Practice and Procedure for Administrative Hearings.

137-014.08 Address Information: Each credential holder must notify the Department of any change to the address of record.

137-014.09 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.

137-014.09A 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.

137-014.09B 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.

137-014.09C Right to Practice: When an individual's credential expires, the right to represent him/herself as a credential holder and to practice as a physical therapist or physical therapist assistant terminates.

137-014.09D Practice After Expiration: An individual who practices after expiration of his/her credential is subject to assessment of an administrative penalty under 172 NAC 137-018 or such other action as provided in the statutes and regulations governing the credential.

137-014.09E Reinstatement of an Expired Credential: If a credential holder wants to resume the practice as a physical therapist or physical therapist assistant 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 137-.017.

137-014.10 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.

137-014.10A 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.

137-014.10B Placement on Inactive Status: When an individual's credential is placed on inactive status, the credential holder must not engage in the practice as a physical therapist or physical therapist assistant, but may represent him/herself as having an inactive credential.

137-014.10C 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 137-017.

137-015 DISCIPLINARY ACTIONS

137-015.01 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 or credential holder to practice the profession;
6. Practice of the profession:
 - a. Fraudulently,
 - b. Beyond its authorized scope,
 - c. With gross incompetence or gross negligence, or
 - d. In a pattern of incompetent or negligent conduct;
7. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, 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;

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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 137-015.05 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 in advertisements;
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 137-015.02; or
24. Violation of the Automated Medication Systems Act.

137-015.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, 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 not is 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
 - d. By a person credentialed pursuant to the Water Well Standards and Contractors' Practice Act.
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 credentialing 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;
 10. Failure to keep and maintain adequate records of treatment or service;
 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 behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with the care; and
 15. Competence: A physical therapist or physical therapist assistant must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of physical therapy includes but is not limited to: Performing or agreeing to perform procedures when the procedures are known to be a departure from the standards of acceptable and prevailing practice in physical therapy. Unprofessional conduct does not include a single act of ordinary negligence.
 16. Confidentiality: Without the prior written consent of a patient, physical therapist or physical therapist assistant must hold in confidence information obtained from a patient, except in those unusual circumstances in which to

do so would result in clear danger to the person or to others, or where otherwise required by law;

17. Professional Relationships: A physical therapist or physical therapist assistant must safeguard the welfare of patients and maintain professional relationships with patients. Commission of any of the following acts or behavior will constitute unprofessional conduct:
 - a. Exploiting another person for one's own advantage;
 - b. Performing or agreeing to perform physical therapy services that have been requested when the services are known to be contraindicated or unjustified;
 - c. Performing or agreeing to perform procedures that have been requested when the procedures are known to be outside of the physical therapists or physical therapist assistant's scope of practice;
 - d. Verbally or physically abusing patients;
 - e. Falsification or unauthorized destruction of patient's records;
 - f. Attempting to provide diagnostic or treatment information to patient(s) that is beyond the physical therapists or physical therapist assistant's level of education, training and expertise
 - g. Delegating to other personnel those patient related services for which the clinical skills and expertise of a physical therapist or physical therapist assistant are required;
 - h. Encouraging or promoting the practice of physical therapy by untrained or unqualified persons;
 - i. Failure to safeguard the patient's dignity and right to privacy;
 - j. Failure to maintain adequate patient records : Adequate patient records means legible records that contain at a minimum, sufficient information to identify the patient, an evaluation of objective findings, a plan of care, a treatment record, and a discharge plan; or
 - k. Delegating to a physical therapy assistant those patient related services for which the clinical skills and expertise of a physical therapist are required;
18. Sexual Misconduct: A physical therapist or physical therapist assistant must not under any circumstances engage in sexual misconduct. Specifically with regard to patients, the unprofessional conduct includes but is not limited to:
 - a. Engaging in sexual relationships, whether consensual or non consensual with any patient while a physical therapist or physical therapist assistant/patient relationship exists; or
 - b. Engaging in sexual harassment of patients: Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:
 - (1) Providing or denying physical therapy to a patient;
 - (2) Creating an intimidating, hostile, or offensive environment for the patient; or
 - (3) Interfering with a patient's ability to recover;

19. Other unprofessional conduct includes but is not limited to:
 - a. Obtaining any fee for professional services by fraud, deceit or misrepresentation;
 - b. The violation of an assurance of compliance entered into pursuant to Neb. Rev. Stat. § 71-171.02 of the Uniform Licensing Law;
 - c. Failure to follow policies or procedures implemented in the practice situation to safeguard patient care;
 - d. Failure to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a physical therapist;
 - e. Practicing in this state without a current Nebraska license or certificate;
 - f. Failure to obtain patient informed consent before treatment;
 - g. Failure to take steps to transfer the continuum of care of the patient, as appropriate, to another health care provider in the event of elective termination of physical therapy services by the physical therapist;
 - h. Engaging in conduct that subverts or undermines the integrity of the examination or the examination process including, but not limited to, utilizing in any manner recalled or memorized examination questions from or with a person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with other examinees during the test, or copying or sharing examination questions or portions of questions;
 - i. Failure to complete continuing competency requirements as established by rules and regulations as specified in 172 NAC 137;
 - j. Promoting any unnecessary device, treatment intervention or service resulting in the financial gain of the practitioner or of a third party; or
 - k. Participating in under-utilization or over-utilization of physical therapy services for personal or institutional financial gain;

137-015.03 Temporary Suspension or Limitation

137-015.03A 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 137-015.01 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.

137-015.03B 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.

137-015.03C A temporary suspension or temporary limitation of a credential under 172 NAC 137-015.03 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.

137-015.04 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.

137-015.05 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.

137-015.05A Additional Terms and Conditions of Discipline: If any discipline is imposed pursuant to 172 NAC 137-015.05, 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.

137-016 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.

137-016.01 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.

137-016.02 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.

137-016.03 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.

137-016.04 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.

137-016.05 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.

137-016.06 Reinstatement following voluntary surrender is set out in 172 NAC 137-017.

137-017 REINSTATEMENT: This section applies to individuals previously credentialed in Nebraska 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.

137-017.01 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.
 - (4) 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 an alien or non-immigrant, s/he must submit evidence of lawful presence 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) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 137-013 for a physical therapist or physical therapist assistant within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) 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;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 137-015 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; and
 - (5) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and

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- (6) For the purposes of Neb. Rev. Stat. §38-129; 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.
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.

137-017.01A If an applicant has practiced while his/her credential was expired, 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. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

137-017.01B 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. Reinstate the credential to active status and impose limitation(s) or other disciplinary actions on the credential; and/or
3. Reinstate the credential.

137-017.01C The Department will act within 150 days on all completed applications.

137-017.01D 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.

137-017.02 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 172 NAC 137-017.01.

137-017.03 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 an alien or non-immigrant, s/he must submit evidence of lawful presence and/or immigration status 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) Is of good character;
 - (2) Has met the continuing competency requirements specified in 172 NAC 137-013 within the 24 months immediately preceding submission of the application (or other requirements as specified by the practice act);
 - (3) 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;
 - (4) Has not committed any act which would be grounds for action against a credential as specified in 172 NAC 137-015 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; and
- (5) For purposes of Neb. Rev. Stat. §§ 4-108 to 4-114, a citizen of the United States or a qualified alien under the Federal Immigration and Nationality Act; and
 - (6) For the purposes of Neb. Rev. Stat. §38-129
 - (a) A citizen of the United States;
 - (b) An alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or
 - (c) A nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act.

2. Fee: The renewal fee.

137-017.03A The Board will make a recommendation regarding reinstatement following suspension, limitation, revocation, or voluntary surrender within 180 days of receipt of the application.

137-017.03B 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.

137-017.03C On the basis of the written application, materials submitted by the applicant, and the information obtained under 172 NAC 137-017.03B, 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 137-018, in which case a separate notice of opportunity for hearing will be sent to the applicant.

137-017.03D 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.

137-017.03E 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.

137-017.03F 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.

137-017.03G 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.

137-017.03H 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.

137-017.03I 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.

137-018 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.

137-018.01 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. Water well registration or other 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.

137-018.02 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 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. 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.

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137-018.03 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.

137-019 FEES: Fees referred to in these regulations are set out in 172 NAC 2, unless otherwise specified.

137-020 METHOD OF IDENTIFICATION: Every person credentialed as a physical therapist or physical therapist assistant shall make his/her current credential available upon request. The method of identification shall be clear and easily accessed and used by the consumer. All signs, announcements, stationery, and advertisements of physical therapists or physical therapist assistants shall identify the profession. The initials PT and PTA are acceptable identifiers.

These amended rules and regulations replace Title 172 NAC 137 Regulations Governing the Practice of Physical Therapy, effective August 20, 2008.

Approved by the Attorney General:	May 22, 2012
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Forms may be obtained by contacting the Licensure Unit or by accessing the website at:
http://dhhs.ne.gov/publichealth/Pages/crl_profindex1.aspx