

EFFECTIVE
3-12-06

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 102

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 102 PRACTICE OF LICENSED PRACTICAL NURSES – CERTIFIED

TABLE OF CONTENTS

<u>SUBJECT</u>	<u>CODE SECTION</u>	<u>PAGE</u>
Acceptable Activities in IV Therapy	003	3
Administrative Penalty	014	14
Definitions	002	1
Examination Eligibility	005	5
Examination Procedures	006	5
Examination Passing Score	007	6
Grounds on Which the Department May Deny, Refuse Renewal of, or Discipline a Certificate	012	13
Minimum Prerequisites for Enrollment	009	6
Re-Credentialing	015	15
Requirements for Course Approval	010	7
Requirements for Issuance of Certificate by Examination	004	4
Requirements and Procedure for Renewal of Certificate	011	10
Re-Examination	008	6
Schedule of Fees	013	13
Scope and Authority	001	1

EFFECTIVE
3-12-06

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 102

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 102 PRACTICE OF LICENSED PRACTICAL NURSES - CERTIFIED

102-001 SCOPE AND AUTHORITY

102-001.01 These regulations govern the participation of licensed practical nurses certified in the administration of intravenous therapy, a complex activity that includes, but is not limited to, observing, initiating, monitoring, discontinuing, maintaining, regulating, adjusting, documenting, assessing, planning, intervening and evaluating. Within nursing, the administration of intravenous therapy is the responsibility of the registered nurse as prescribed by the licensed practitioner. A licensed practical nurse-certified may perform limited intravenous therapy interventions under the direction of a registered nurse or licensed practitioner. A licensed practical nurse-certified may be used to complement the registered nurse's role or licensed practitioner role in the administration of intravenous therapy, but cannot be used as a substitute for the registered nurse or licensed practitioner. An LPN-C may only provide intravenous interventions when there is a licensed practitioner or registered nurse assessing the client at least once every 24 hours, or more frequently when a significant change in therapy or client condition has occurred.

102-001.02 These regulations are authorized by and implement Neb. Rev. Stat. §§ 71-147 to 148, 71-150 to 71-162.05, 71-164.01, 71-172.02, 71-1,132.20, and 71-1772 to 71-1794.

102-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 71-1772 to 71-1794, known as the Licensed Practical Nurse-Certified Act.

Approved certification course means a course which the Board has approved for the education and training of a licensed practical nurse-certified.

Approved medications means those medications for which nursing interventions are routine and predictable in nature related to individual responses and adverse reactions.

Approved methods of administration means intravenous administration both by piggyback and push methods through intermittent access and continuous flow peripheral lines and through continuous flow central lines.

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

EFFECTIVE
3-12-06

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 102

Board means the Board of Nursing.

Calculate rate of flow means to determine drip factor or pump setting based upon a prescribed amount of fluid to infuse during a prescribed period of time.

Central line means an intravenous line in which the tip of the catheter ends in the vena cava.

Course supervisor means the registered nurse who is responsible for the course curriculum, the faculty, the policies and procedures of the program including criteria for successful completion, and the necessary resources to provide for adequate learning experiences.

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

Direct supervision means that the responsible licensed practitioner or registered nurse is physically present in the clinical area and is available to assess, evaluate, and respond immediately.

Educator means an individual who has been approved to offer education and training of a licensed practical nurse-certified as outlined in 172 NAC 102-011.

Examination for certification means an examination approved by the Board that covers the content area as prescribed in the curriculum of an approved certification course.

Initial venipuncture means the initiation of intravenous therapy based on a new order from a licensed practitioner.

Licensed practical nurse (LPN) means an individual who holds a current license or has the authority based on the Nurse Licensure Compact to practice as a licensed practical nurse in Nebraska.

Licensed practitioner means any person authorized to prescribe intravenous therapy.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 102.

Nurse Licensure Compact means the agreement among states that have enacted the standard provisions of the compact into their individual state statutes. In Nebraska, the compact is in Neb. Rev. Stat. § 71-1795. The compact allows a nurse to have one license (in his/her state of residence) and practice in other states, as long as the nurse acknowledges that s/he is subject to each state's practice laws and discipline. Practice across state lines is allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines.

Pediatric client means a client who is both under the age of eighteen and under the weight of thirty-five kilograms.

Piggyback method of IV medication administration means that the drug is administered using a secondary bag/bottle and tubing and the primary infusion is concurrently maintained throughout drug administration.

Push method of IV medication administration means that medication is administered through a syringe directly into a vein.

Registered nurse (RN) means an individual who holds a current license or has the authority based on the Nurse Licensure Compact to practice as a registered nurse in Nebraska.

Significant change in therapy means any change ordered by a licensed practitioner related to a change in intravenous fluid, change in rate, and/or change in medication or frequency of administration.

102-003 ACCEPTABLE ACTIVITIES IN INTRAVENOUS THERAPY

102-003.01 An LPN-C may perform all the activities described in 172 NAC 99-007.

102-003.02 When under the direct supervision of an RN or licensed practitioner, an LPN-C may perform these activities for an adult client:

1. Infuse intravenous fluids and administer medications into a continuous flow central line. Infusing fluids and administering medications into an intermittent central line is not permitted.
2. Perform initial venipuncture in the hand, forearm, antecubital fossa area, and/or the upper arm with a device three inches in length or less.
3. Administer an initial dose of an approved medication as described in 172 NAC 102-003.05, by an approved method.
4. Add Dextrose 10% as a meal replacement.

102-003.03 When under the direction of an RN or licensed practitioner, an LPN-C may perform these activities for an adult client:

1. Perform venipuncture in the hand, forearm, antecubital fossa area, and/or the upper arm with a device three inches in length or less.
2. Calculate and adjust the rate of flow.
3. Administer approved medications, as described in 172 NAC 102-003.05, by approved methods. If administering pain medications through a patient-controlled administration pump, the cassette or syringe must have been commercially prepared, or prepared by a pharmacist, physician or registered nurse.
4. Reinsert, convert and flush peripheral intermittent infusion devices.

102-003.04 When under the direction of an RN or licensed practitioner, an LPN-C may perform these activities for a pediatric client:

1. Administer pain medications through a patient-controlled administration pump if the medication has been commercially prepared, or prepared by a pharmacist, physician or registered nurse.
2. Flush a peripheral intermittent infusion device.

102-003.05 Approved Medications

102-003.05A When approving medications for intravenous administration by an LPN-C, the RN or licensed practitioner must consider the following:

1. Adverse consequences;
2. How adverse consequences are manifested;
3. How adverse consequences are measured;
4. What intervention is required; and
5. How intervention is applied.

102-003.05B Approved medications do not include:

1. Blood and blood products;
2. Antineoplastic agents;
3. Oxytocics;
4. Anti-arrhythmics; and
5. Hyperalimentation.

102-004 REQUIREMENTS FOR ISSUANCE OF CERTIFICATE BY EXAMINATION: A licensed practical nurse may perform the activities identified in 172 NAC 102-003 only if s/he holds a licensed practical nurse certificate. This requirement does not prohibit practical nurses identified in Neb. Rev. Stat. § 71-1789 from performing the activities in 172 NAC 102-003 as limited by that section. The criteria for issuance of a certificate and documents required in applying for a certificate by examination are set forth below.

102-004.01 An applicant for a certificate to practice as an LPN-C must:

1. Have a current license or the authority based on the Nurse Licensure Compact to practice as a licensed practical nurse in Nebraska;
2. Have demonstrated approved certification course prerequisites;
3. Have successfully completed an approved certification course within one year before application for certification;
4. Satisfactorily pass at the time of application an examination for certification approved by the Board;
5. Submit to the Department:
 - a. A verified application which contains the following information about the applicant: name, address, gender, date of birth, place of birth, Social Security number, LPN license number, primary state of residence, the name of the provider for the certification course, and an indication of the number of times the applicant has applied to take the certification examination. Only applications that contain all of the required information will be considered;
 - b. A statement describing all of the following: (Information previously submitted on a mandatory report or other license application does not need to be submitted again.)
 - (1) Pending charges which could result in a felony or misdemeanor conviction;
 - (2) Felony or misdemeanor convictions; (This does not include minor traffic violations.)

EFFECTIVE
3-12-06

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 102

- (3) Denials, discipline or pending discipline of a license in any health care profession;
- (4) Denials of admissions to take a licensing examination in any health care profession;
- c. Proof of successful completion within the previous year of an approved certification course. Proof of completion of the certification course meets the requirement for demonstration of the course prerequisites; and
- d. The required certification fee.

102-004.02 The following applicants must provide additional information to the Department:

- 1. Persons with pending charges which could result in a felony or misdemeanor conviction;
- 2. Persons who have been convicted of a felony or misdemeanor; (This does not include minor traffic violations.) and
- 3. Persons whose license to practice in a health care profession has been denied or disciplined or is pending discipline.

102-004.03 Applicants listed in 172 NAC 102-004.02 must submit the following to the Department:

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

102-004.04 The Department must act within 150 days of the examination upon all completed applications for certification.

102-004.05 If the Department proposes to deny issuance of a certificate, the applicant will be given an opportunity for a hearing before the Department and has the right to present evidence on his or her own behalf. Hearings before the Department will be conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

102-005 EXAMINATION ELIGIBILITY: To be eligible to take the examination for certification as a licensed practical nurse-certified, an applicant must meet all the requirements for certification pursuant to Neb. Rev. Stat. § 71-1777 and 172 NAC 102-004 except satisfactorily passing the examination for certification.

102-006 EXAMINATION PROCEDURES

102-006.01 The certification examination will be administered by the Department every three months, and may be administered more frequently if needed.

102-006.02 The examination dates and location of administration will be determined by the Board.

102-006.03 The applicant will be notified of the date, time, place and other information pertinent to the administration of the examination at least two weeks prior to the certification examination.

102-006.04 The Department will notify an applicant in writing of the certification examination results within 30 days of the examination.

1. An applicant passing the certification examination will be issued a certificate provided s/he has met the requirements for certification as set forth in 172 NAC 102-004.
2. An applicant not passing the certification examination will be denied a certificate in accordance with Neb. Rev. Stat. § 71-1782. The applicant will receive examination results and notice of appeal process.

102-007 EXAMINATION PASSING SCORE: The passing score for the certification examination is 80%.

102-008 REEXAMINATION

102-008.01 An applicant who fails the certification examination one time may reapply for certification by examination and retake the examination.

102-008.02 An applicant who fails the certification examination two times must retake an approved certification course before s/he may reapply to retake the examination and become certified.

102-008.03 An applicant who wishes to retake the examination must meet the requirements set forth in 172 NAC 102-004 and resubmit to the Department:

1. A verified application as set forth in 172 NAC 102-004.01;
2. Proof of successful completion within the previous year of an approved certification course; and
3. The required certification fee.

102-009 MINIMUM PREREQUISITES FOR ENROLLMENT

102-009.01 A provider of an approved certification course must require all applicants for the course to demonstrate the following competencies prior to enrolling in the course:

1. Basic math skills of addition, subtraction, multiplication, division and percentages;
2. Problem solving and critical thinking skills; and
3. Communication and documentation skills.

102-009.02 Acceptable means for measuring the competencies include:

1. Standardized or national examinations;
2. Program-developed examinations;

3. Supervisory evaluations; or
4. A combination of any of the above.

102-010 REQUIREMENTS FOR COURSE APPROVAL: Pursuant to Neb. Rev. Stat. § 71-1780 the Department, with the advice of the Board, will prescribe a curriculum for training licensed practical nurses-certified and establish minimum standards for approved certification courses.

102-010.01 The curriculum of an approved certification course must meet the following criteria:

102-010.01A The course must consist of no fewer than 48 hours of classroom instruction which must include but not be limited to:

1. State laws governing the administration of intravenous therapy;
2. Review of anatomy and physiology of the circulatory system;
3. Fluid and electrolyte balance:
 - a. Fluid and electrolyte regulation mechanisms,
 - b. Electrolyte imbalances,
 - c. Fluid volume excess/deficit,
 - d. Implications for use of intravenous fluids,
 - e. IV fluid osmolarity (isotonic, hypertonic, hypotonic);
4. Peripheral intravenous therapy:
 - a. Purposes,
 - b. Selection of the site: vein anatomy; location of the veins,
 - c. Implications of medications/fluids in peripheral sites,
 - d. Venipuncture procedure:
 - (1) Stainless steel needle,
 - (2) Over-the-needle catheter,
 - e. Maintaining the peripheral IV:
 - (1) Infusion rate and methods to insure accurate infusion,
 - (2) Site reassessment,
 - (3) Types of tubing,
 - (4) Uses of filter,
 - (5) Intermittent infusion devices to include flushing techniques,
 - (6) Review of site care including dressing change;
 - f. Potential complications/identification of non-functioning IV lines and appropriate interventions,
 - g. Review discontinuation of peripheral lines,
 - h. Documentation considerations;
5. Central intravenous therapy:
 - a. Purposes and sites,
 - b. Types of central catheters,
 - c. IV tubing changes,
 - d. Potential complications,

- e. Identification of non-functioning lines,
 - f. Review of dressing site changes,
 - g. Documentation considerations;
6. Pharmacology to include:
- a. Concepts of absorption, distribution, biotransformation, and excretion for intravenous medications,
 - b. Factors affecting drug functioning:
 - (1) Half-life,
 - (2) Implication for peak/trough levels,
 - (3) Implications for timing drug infusion,
 - (4) Compatibilities,
 - c. Actions, interactions, and effects of medications in intravenous therapy;
 - d. Risks associated with intravenous administration of medications.
7. Infection control principles:
- a. As related to a client,
 - b. As related to health care worker,
 - c. As applicable for care of equipment.

102-010.01B An approved course must include a clinical competency component. The licensed practical nurse must demonstrate the ability to:

- 1. Select an administration site on hands, forearms, antecubital fossa, and upper arm;
- 2. Assemble equipment and set up flow control administration devices (gravity, electronic monitoring, etc.);
- 3. Perform at least three venipunctures in the laboratory/clinical area under the direct supervision of faculty, including preparation of site, selection of the appropriate type and size of needle/catheter, venipuncture, and securing of venipuncture device;
- 4. Problem solve non-functioning peripheral intravenous lines;
- 5. Convert and flush a peripheral intermittent infusion device, including the drawing up of the correct irrigating fluid;
- 6. Add a fluid to a functioning central venous line;
- 7. Change central line tubing and dressings of central venous insertion site;
- 8. Document the insertion of a peripheral infusion device and the administration of select fluids and acceptable medications; and
- 9. Add a fluid/medication to an infusion pump to include changing the cassette and resetting the administration parameters.

102-010.02 Faculty

102-010.02A An approved certification course must be supervised by a registered nurse with a minimum of three years of clinical experience immediately prior to supervision of the course.

102-010.02A1 The registered nurse must have a minimum of a master's degree in nursing or a related field, or show yearly academic progress toward meeting the degree requirements and have experience in nursing practice or nursing education.

102-010.02A2 Clinical experience may include practice as nursing faculty in an approved program of registered or practical nursing or as an instructor in staff development in a facility approved by the State of Nebraska.

102-010.02B An educator may be a registered nurse, physician, pharmacist, or other qualified professional.

102-010.02B1 An educator must have at least 24 months experience in the practice of his or her profession and current expertise in the area of administration of intravenous therapy.

102-010.02C For purposes of demonstration of clinical competencies, the faculty-to-student ratio must be one-to-one.

102-010.03 Record Keeping: A policy must be in place for the licensed practical nurse-certified course to provide documentation to the Department that the applicant has successfully passed an approved certification course.

102-010.04 An applicant to conduct an approved certification course must submit to the Department:

1. An application which includes the following:
 - a. Agency name providing the course,
 - b. Name, title, practice experience, and educational preparation of person that is supervising the course,
 - c. Names and qualifications of persons who will be teaching all or portions of the course,
 - d. Identification of the total didactic hours that are in the course,
 - e. Identification of methods and requirements for demonstrating clinical competencies,
 - f. A copy of the course outline showing content to be taught,
 - g. A copy of the evaluation form to be used to document that the participant did or did not pass the course,
 - h. Identification of the method to be used to provide documentation to the Department that the applicant has successfully passed an approved certification course; and
2. The appropriate fee.

102-010.05 The Department will act within 150 days upon all completed applications to conduct an approved certification course.

102-010.06 All approved course providers must keep the Board informed of any changes in

course objectives, content, and/or instructors at the time such changes occur.

102-010.07 The Department may deny, revoke, or suspend approval or otherwise take disciplinary measures against the provider of an approved certification course for failure to meet or continue to meet the criteria for approval of a certification course.

102-010.07A Any appeal to such denial, revocation, suspension, or other disciplinary measures must be conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

102-011 REQUIREMENTS AND PROCEDURE FOR RENEWAL OF A CERTIFICATE

102-011.01 All certifications as a licensed practical nurse-certified issued by the Department pursuant to the Act and 172 NAC 102 expire on October 31 of each odd-numbered year unless renewed as provided below.

102-011.02 Before her or his certification will be renewed the licensed practical nurse-certified must:

1. Have completed five contact hours of continuing education and/or inservice education related to intravenous therapy. This contact hour requirement may be included in the continuing education required for renewal of the license to practice as a licensed practical nurse;
2. Have a current license or the authority based on the Nurse Licensure Compact to practice as a licensed practical nurse in Nebraska.

102-011.03 Renewal Process: Any LPN-C who wishes to renew her/his certificate must:

1. Meet the continuing competency requirements pursuant to 172 NAC 102-011.02;
2. Pay the renewal fee as prescribed in 172 NAC 102-013.
3. Respond to the following questions:
 - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?These questions relate to the time period since the last renewal of the certificate or during the time period since certification in Nebraska if such occurred within the two years prior to the certificate expiration date.
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing the continuing competency requirements within 24 months of the date of expiration. Attestation of meeting continuing competency requirements satisfies requirements for documentation of continuing competency.
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the certificate holder has been convicted of a felony or misdemeanor:

- (1) Official Court Record, which includes charges and disposition;
- (2) Copies of arrest records;
- (3) A letter from the certificate holder explaining the nature of the conviction;
- (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- (5) A letter from the probation officer addressing probationary conditions and current status, if the certificate holder is currently on probation.

102-011.03A First Notice: On or before August 1 of odd-numbered years, the Department will send a renewal notice by means of regular mail to each certificate holder at the certificate holder's last place of residence as noted in the records of the Department. It is the responsibility of the certificate holder prior to the renewal period to notify the Department of any name and/or address changes.

102-011.03A1 The renewal notice will specify:

1. The name of the certificate holder;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the certificate;
5. The renewal fee as prescribed in 172 NAC 102-013;
6. The attestation of continuing competency; and
7. The attestation of primary state of residence.

102-011.03A2 The certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The certificate holder's Social Security number;
4. Attestation of meeting the continuing competency requirements; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

102-011.03B Second Notice: The Department will send to each certificate holder who fails to renew her or his certificate in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 102-011.03A that specifies:

1. That the certificate holder has failed to pay the renewal fee;
2. That the certificate has expired;
3. That the Department will suspend action for 30 days following the date of expiration;
4. That the certificate holder is subject to an administrative penalty pursuant to 172 NAC 102-014 if s/he practices after the expiration date;

5. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency within that time, the certificate will be not be placed on lapsed status; and
6. That upon failure to receive \$25 in addition to the renewal fee and documentation of continuing competency, the certificate will be lapsed.

102-011.03B1 The certificate holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The certificate holder's Social Security number;
4. Attestation by the certificate holder:
 - a. That s/he has not practiced in Nebraska since the expiration of her/his certificate; or
 - b. To the actual number of days practiced in Nebraska since the expiration of her or his certificate;
5. Attestation of meeting the continuing competency requirements; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).

102-011.03B2 When a certificate holder fails, within 30 days of expiration of a certificate, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically lapse the certificate without further notice or hearing and make proper record of the lapsed status.

102-011.03B3 Failure to meet the continuing competency requirements for renewal within 30 days of expiration of her/his certificate will constitute non-renewal of a certificate. When any certificate holder fails, within 30 days of expiration of a certificate, to meet the continuing competency requirements for renewal and pay an additional late fee of \$25, the Department will lapse the certificate.

102-011.03B4 The Department may refuse to renew a certificate for falsification of any information submitted for renewal of a certificate. The refusal will be made pursuant to Neb. Rev. Stat. §§ 71-150 to 71-155 and the Department's Rules of Practice and Procedure.

102-011.03B5 An individual who practices after expiration of her/his certificate is subject to assessment of an administrative penalty pursuant to 172 NAC 102-014, or such other action as provided in the statutes and regulations governing the license.

102-012 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A CERTIFICATE

102-012.01 The Department, upon the recommendation of the Board, will deny an application for certification to practice as a licensed practical nurse-certified when the applicant fails to meet the requirements for certification pursuant to 172 NAC 102-004 or is found to be in violation of any of the provisions of 172 NAC 102-012.

102-012.02 The Department, upon the recommendation of the Board, will refuse renewal of a certification if the licensed practical nurse-certified fails to meet the requirements pursuant to 172 NAC 102-011.

102-012.03 The Department, upon the recommendation of the Board, may deny, refuse renewal of, limit, suspend, or revoke certifications for any of the grounds identified in 172 NAC 101-007.

102-012.04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend a license other than for non-payment of the renewal fee, the applicant or license holder will be notified and given an opportunity for a hearing before the Department. Hearings before the Department will be conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 71-150 to 71-155.

102-013 SCHEDULE OF FEES: An applicant must pay fees to the Department as follows:

1. Initial Certification Fee: For a certificate to practice as a licensed practical nurse-certified, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1 for each year remaining in the current biennial renewal period.
2. Certificate Renewal Fee: For biennial renewal of a certificate to practice as a licensed practical nurse-certified, the fee of \$30. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program Fee of \$2.
3. Late Fee: For renewal on a biennial basis of a certificate to practice as an LPN-C, who fails to pay the renewal fee on or before the expiration date of his/her certificate, the fee of \$25 as a late fee in addition to the renewal fee.
4. Proration of Initial Certification Fee: For issuance of a certificate that will expire within 180 days after its initial issuance date, a fee of \$25. If the applicant's primary state of residence is another compact state, s/he must also pay the Licensee Assistance Program fee of \$1. The certificate will be valid until the next subsequent renewal date.
5. Certification of Certificate Fee: For issuance of a certification of a certificate, the fee of \$25. The certification includes information regarding:
 - a. The basis on which a certificate was issued;
 - b. The date of issuance;
 - c. Whether disciplinary action has been taken against the certificate; and
 - d. The current status of the certificate.

6. Verification of Certificate Fee: For issuance of a verification of a certificate, the fee of \$5. The verification includes written confirmation as to whether a certificate was valid at the time the request was made.
7. Duplicate Certificate Fee: For a duplicate of an original certificate document or reissued certificate, the fee of \$10.
8. Administrative Fee: For a denied certificate or a withdrawn application, an administrative fee of \$25 will be retained by the Department.
9. Approval of a Certification Course (Approved School of Nursing): For approval of a certification course to be offered by an approved school of registered or practical nursing, the fee of \$250.
10. Approval of a Certification Course (Other than Approved School of Nursing): For approval of a certification course to be offered by a person other than an approved school of registered or practical nursing, the fee of \$750.
11. Reinstatement From Lapsed Status Fee: For reinstatement of a certificate from lapsed status:
 - a. If not more than one year after the certificate was placed on lapsed status, the fee of \$35 in addition to the renewal fee.
 - b. If more than one year after the certificate was placed on lapsed status, the fee of \$75 in addition to the renewal fee.
12. Reinstatement Following Discipline Fee: For reinstatement following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

102-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person practices without a certificate. Practice without a certificate for the purpose of this regulation means practice:

1. Prior to the issuance of a certificate; or
2. Following the expiration of a certificate.

102-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a certificate:

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; or
6. The person or entity opens a business or practice site and announces or

advertises that the business or site is open to provide service, care, or treatment.

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

102-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a certificate. To assess such 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, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

102-014.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

102-015 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

102-015.01 Eligibility:

102-015.01A An individual whose credential has been previously:

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

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

102-015.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date

of revocation.

102-015.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 102-014; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

102-015.02 Requirements to Restore a Credential from Lapsed to Active Status: A person whose credential has been placed on lapsed status may have her/his credential restored from lapsed to active status upon proof to the Department that s/he meets the following requirements:

1. Meet the certification requirements set out in 172 NAC 102-004; and
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

102-015.02A If an applicant has practiced while her/his credential was lapsed the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 102-014;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from lapsed to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

102-015.02B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

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

102-015.02C In either event pursuant to 172 NAC 102-015.02A or 102-015.02B, a notice and the opportunity for hearing will be given to the applicant.

102-015.02D The Department will act within 150 days on all completed applications.

102-015.03 (Reserved)

102-015.04 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

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

102-015.05 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

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

- disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
- (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner; and
- (6) Any continuing competency activities;
- 1. The reinstatement fee of \$75; and
 - 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after her/his credential was revoked, the Department may assess an administrative penalty pursuant to 172 NAC 102-014 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after her/his credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 102-015.05G below.

102-015.05A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

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

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

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

102-015.05B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

102-015.05C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

102-015.05D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

102-015.05E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

102-015.05E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

102-015.05E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

102-015.05F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

102-015.05G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

102-015.05G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit to the Department an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

102-015.05G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified

mail along with notification that the petitioner must file an application for reinstatement with the Director.

2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any; and
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

102-015.05G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

102-015.06 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

102-015.06A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

102-015.06A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social Security number;
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
 - f. Any continuing competency activities; and
 - g. Attestation:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or

- (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.

102-015.06A2 If an applicant has practiced while her/his credential was voluntarily surrendered, the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 102-014;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

102-015.06A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while her/his credential was voluntarily surrendered or limited, the Department may:

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

102-015.06A4 In either event pursuant to 172 NAC 102-015.06A2 or 172 NAC 102-015.06A3 a notice and the opportunity for hearing will be given to the applicant.

102-015.06A5 The Department will act within 150 days on all completed applications.

102-015.07 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

102-015.07A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

102-015.07B If an individual has practiced while her/his credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an administrative penalty pursuant to 172 NAC 102-014.

102-015.08 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.