

EFFECTIVE
7/21/04

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 103

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 103 PRACTICE OF CERTIFIED REGISTERED NURSE ANESTHETISTS

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 103 PRACTICE OF CERTIFIED REGISTERED NURSE ANESTHETISTS

103-001 SCOPE AND AUTHORITY: These regulations govern the practice of certified registered nurse anesthetists in the State of Nebraska. These regulations are authorized by and implement Neb. Rev. Stat. §§ 71-147 to 71-148, 71-150 to 71-162.05, 71-164.01, 71-172.02, 71-1,132.20, and 71-1729 to 71-1737.

103-002 DEFINITIONS

Act means the Advanced Practice Registered Nurse Act.

Approved course of study in anesthesia means a nurse anesthesia educational program accredited by the Council on Accreditation of Nurse Anesthesia and Educational Programs.

Approved examination means the National Certification Examination (NCE) given by the Council on Certification of Nurse Anesthetists.

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

Boards means the Board of Nursing and Board of Examiners in Medicine and Surgery.

Completed application means all of the information requested in 172 NAC 103-003.01 has been provided and attested and the appropriate fees and all required documentation have been submitted.

CRNA means a Certified Registered Nurse Anesthetist who is a registered nurse and who meets all the criteria for certification and holds a current certification from the State of Nebraska to practice nursing in the specific expanded role of anesthesia.

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

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

Lapsed status means the designation given to a certificate holder who requests this status or who fails to renew his/her certification.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 103.

National certification means the certification granted by the Council on Certification of Nurse Anesthetists.

National recertification means the continued periodic granting of recertification by the Council on Recertification of Nurse Anesthetists.

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.

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

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

103-003 REQUIREMENTS FOR ISSUANCE OF A CERTIFICATE: A person may practice as a CRNA in Nebraska only if s/he holds a Nebraska certificate or a temporary permit. This requirement does not prohibit persons identified in Neb. Rev. Stat. § 71-1726.01 from practicing advanced practice nursing or Neb. Rev. Stat. § 71-1729(3) from practicing anesthesia as limited by those sections. The criteria for issuance of a certificate and temporary permit, and the documents required in applying are set forth below.

103-003.01 Requirements for Certification: The applicant must:

1. Be licensed as a registered nurse in the State of Nebraska, or have the authority to practice pursuant to the Nurse Licensure Compact;
2. Have successfully completed an approved course of study in anesthesia;
3. Have passed an approved examination and have current national certification or recertification; and
4. Pay the appropriate fee.

103-003.02 Applicants for certification must submit to the Department:

1. A completed written application which:
 - a. Is verified by the applicant's oath; and
 - b. Contains the following information about the applicant:
 - (1) Name;

- (2) Address;
 - (3) Gender;
 - (4) Date of birth;
 - (5) Place of birth;
 - (6) Social Security number;
 - (7) Primary state of residence;
 - (8) RN license number in primary state of residence if primary state of residence is another compact state;
 - (9) Name and location of the approved course of study in anesthesia from which the applicant graduated; and
 - (10) A statement describing all:
 - (a) Pending charges which could result in a felony or misdemeanor conviction;
 - (b) Felony or misdemeanor convictions;
 - (c) Denials, discipline, or pending discipline of a license in any health care profession; and
 - (d) Denials of admission to take a licensing examination in any health care profession;
2. An official transcript showing completion of the requirements for an approved course of study. National certification by the Council on Certification of Nurse Anesthetists or national recertification by the Council on Recertification of Nurse Anesthetists will meet this requirement;
3. Documentation of having passed an approved examination by letter or other official record from the Council on Certification of Nurse Anesthetists. Any applicant who indicates on his/her application that s/he is not currently certified by the Council on Certification of Nurse Anesthetists or recertified by the Council on Recertification of Nurse Anesthetists will be required to obtain national certification or recertification;
4. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license.
 - (1) Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an administrative penalty pursuant to 172 NAC 103-006, or such other action as provided in the statutes and regulations governing the credential; and
5. The required certification fee.
 - a. When a certificate will expire within 180 days after its initial issuance date, the Department will collect \$25 and if applicable the Licensee Assistance Program fee of \$1, and the certificate will be valid until the next subsequent renewal date.

103-003.03 Any applicant who indicates on his/her application that s/he has:

1. Been convicted or has pending charges of a misdemeanor or felony other than a minor traffic violation;
2. Has had his/her credential to practice in a health care profession denied or disciplined or has any pending disciplinary action or denial; or
3. Been denied admission to take the licensing examination in any health care profession, will be required to submit:
 - a. A full explanation of the conviction, denial, and/or disciplinary action and/or pending charges, denial, and/or disciplinary action;
 - b. Official records as requested by the Department related to the conviction, denial or discipline, for example: probation reports, court records, disciplinary reports, or chemical dependency evaluation.

103-003.04 The Department or the Boards may require these applicants to undergo an interview by Department staff or the Boards at their discretion in order to clarify or amplify information contained in the official record.

103-003.05 Temporary Permit: Applicants for certification as a CRNA may be granted a temporary permit. The conditions under which a temporary permit may be issued and the documents required are set forth below.

103-003.05A Applicants who have not previously taken an approved examination and who meet all of the criteria for certification as a CRNA except having passed an approved examination may be granted a temporary permit pending the results of the first examination following graduation in accordance with Neb. Rev. Stat. § 71-1731.

1. For applicants who have not previously taken an approved examination, the examination required for certification in the State of Nebraska will be considered to be the first examination following graduation.
2. Only applicants who have submitted a completed application, the required fee for certification, and who have completed an approved course of study in anesthesia and have registered for the examination will be issued a temporary permit.
 - a. Documentation of completion of an approved course of study may be by an official transcript or by letter from the Dean, Chairperson, or Director of the educational program.
 - b. Proof of registration for the examination must be by letter to the Department from the Council on Certification of Nurse Anesthetists or a notarized copy of a document from the Council to the applicant stating that registration is completed and identifying the date of the examination.
3. The temporary permit is issued for 60 days or until the results of the examination are known.
 - a. The temporary permit is null and void if the applicant fails the examination.

- b. The temporary permit is null and void if the applicant fails to take the scheduled examination, unless extended at the discretion of the Boards. Circumstances which may result in extension of the permit include illness/injury of self or immediate family member, or death of an immediate family member immediately prior to or on the date(s) of the examination.
 - (1) A written request for extension of the permit must be made to the Boards explaining the circumstances under which the extension is requested.

103-003.05B Applicants who meet all of the criteria for certification as a CRNA and who are lawfully authorized to practice as a CRNA in another state may be issued a temporary permit in accordance with Neb. Rev. Stat. § 71-1731 pending completion of the application for a Nebraska certificate.

- 1. Only applicants who have submitted a completed application and the required certification fee, and evidence of current authorization by another state and national certification or recertification will be issued a temporary permit.
 - a. Evidence of lawful authorization in another state may be documented by submission of a notarized copy of a current certificate/license in another state or other official record.
 - b. Evidence of national certification or recertification may be documented by submission of a notarized copy of a current certification or recertification card or other official record.
- 2. The temporary permit may be issued for up to one year and is valid until the certificate is issued, until the expiration date, or until any final decision is made to deny the certificate.

103-003.05C Applicants who meet all of the criteria for certification as a CRNA except current national certification or recertification and who require a reentry program in accordance with Neb. Rev. Stat. § 71-1730 may be issued a temporary permit in accordance with § 71-1731.

- 1. Only applicants who have submitted a completed application and the required certification fee and who have completed an approved course of study in anesthesia will be issued a temporary permit.
- 2. A temporary permit issued pursuant to this section is valid for clinical practice undertaken as part of a reentry program and only for the duration of the program.
- 3. The temporary permit is valid until the certificate is issued, or until any final decision is made to deny the certificate unless extended at the discretion of the Boards for up to one year.

103-003.06 The Department will act within 150 days upon all completed applications for

certification.

103-003.07 If the Department denies issuance of a certificate, the applicant will be given an opportunity for an administrative hearing before the Department conducted in accordance with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

103-004 RENEWAL OF A CERTIFICATE

103-004.01 Expiration: All CRNA certificates issued by the Department pursuant to the Act and these regulations expire on October 31 of each even-numbered year unless renewed as provided below.

103-004.02 Continuing Competency Requirements: For purposes of certificate renewal, the applicant must maintain current national certification granted by the Council on Certification of Nurse Anesthetists.

103-004.03 Renewal Process: Any certificate holder who wishes to renew her/his certificate must:

1. Meet the continuing competency requirements as pursuant to 172 NAC 103-004.02;
2. Pay the renewal fee as prescribed in 172 NAC 103-008;
3. Respond to the following questions:
 - a. Has your license/certification 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 initial certification in Nebraska if such occurred within the two years prior to the certificate expiration date; and
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 the documentation requirement of Neb. Rev. Stat. § 71-1735.
 - d. If any disciplinary action was taken against the applicant's certification by another state, an official copy of the disciplinary action, including charges and disposition; and
 - e. If the applicant 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 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.

103-004.04 First Notice: On or before August 1 of even-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.

103-004.04A The renewal notice will specify:

1. The name of the certificate holder;
2. The certificate holder's last known address of record;
3. The certification number;
4. The expiration date of the certificate;
5. The renewal fee as prescribed in 172 NAC 103-008;
6. The attestation of continuing competency;
7. The option to place the certificate on lapsed status; and
8. The attestation of primary state of residence.

103-004.04B 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 within the required time period; and
5. Documentation relating to misdemeanor or felony conviction(s) or certificate/licensure revocation, suspension, limitation, or disciplinary action (if applicable).

103-004.04C If the certificate holder wishes to place her/his certificate on lapsed status s/he must request that her/his certificate be placed on lapsed status by submitting to the Department the renewal notice with a check in the box marked lapsed.

103-004.04D The Department will notify the certificate holder in writing of the acceptance or denial of the request to allow the certificate to be placed on lapsed status.

103-004.04E A certificate holder whose certificate is on lapsed status must not practice in this state.

103-004.05 Second Notice: The Department will send to each certificate holder who fails to renew her/his certificate or place the license on lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 103-004.04 that specifies:

1. That the certificate holder 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 103-006 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.

103-004.05A 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/his certificate;
5. Attestation of meeting the continuing competency requirements within the required time period; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation, or disciplinary action (if applicable).

103-004.05A1 If the certificate holder wishes to place her/his license on lapsed status, s/he must request that her/his certificate be placed on lapsed status by submitting to the Department the renewal notice with a check in the box marked lapsed.

103-004.05A2 The Department will notify the certificate holder in writing of the acceptance or denial of the request to allow the license to be placed on lapsed status.

103-004.05B 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.

103-004.05C When the certificate holder has given notification to the Department that s/he desires to have the certificate lapse upon expiration, 172 NAC 103-004.05B will not apply.

103-004.05D The Department may refuse to renew a license 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.

103-004.05E An individual who practices after expiration of her/his certificate is subject to assessment of an administrative penalty pursuant to 172 NAC 103-006, or such other action as provided in the statutes and regulations governing the certificate.

103-005 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.

103-005.01 Eligibility

103-005.01A 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.

103-005.01B 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.

103-005.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an administrative penalty pursuant to 172 NAC 103-006; 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.

103-005.02 Requirements to Move a Credential from Lapsed to Active Status: A person whose credential has been placed on lapsed status may have her/his credential moved from lapsed to active status upon proof to the Department that s/he meets the following requirements:

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

Nebraska since s/he last held an active credential.

103-005.03 Procedures for Moving from Lapsed to Active Status: To move a credential from lapsed status to active status, the applicant must submit the following to the Department:

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

103-005.03A If an applicant has practiced while her/his credential was lapsed the Department may:

1. Assess an administrative penalty pursuant to 172 NAC 103-006;
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.

103-005.03B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

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

103-005.03C In either event pursuant to 172 NAC 103-005.03A or 103-005.03B, a notice and the opportunity for hearing will be given to the applicant.

103-005.03D The Department will act within 150 days on all completed applications.

103-005.04 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 Boards 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.

103-005.05 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An application for reinstatement will be consecutively reviewed by both Boards according to the procedures set forth in this section. An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must

submit to the Boards:

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;
2. The reinstatement fee of \$75; and

3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after her/his credential was revoked, the Department may assess an administrative penalty pursuant to 172 NAC 103-006 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 103-005.05G.

103-005.05A The Boards will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Boards 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 Boards, 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 Boards;
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.

103-005.05B The petition to recommend reinstatement will be considered at the next meeting of the Boards that is held, but not earlier than 30 days after the petition is filed.

103-005.05C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Boards within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Boards.

103-005.05D If the Boards recommend reinstatement of the credential, no public hearing need be held on the petition.

103-005.05E Prior to any recommendation by the Boards against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Boards, if formally requested by the petitioner.

103-005.05E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Boards' notification of an opportunity for a formal public hearing.

103-005.05E2 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 Boards may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

103-005.05F If the petitioner formally requests a formal public hearing or if the Boards otherwise hold 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.

103-005.05G The Boards review the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Boards will submit their recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

103-005.05G1 If the Boards recommend reinstatement of the credential:

1. The Boards will send their 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 Boards' 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 Boards' 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 Boards, including any finding of fact or order of the Boards;
 - c. The petition submitted to the Boards;
 - 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 Boards 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 Boards. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Boards' recommendation. A decision by the Director to reverse or modify the Boards' recommendation will be based on finding that the Boards' 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 Boards' 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.

103-005.05G2 If the Boards recommend reinstatement of the credential with terms, conditions, or restrictions:

1. The Boards will send their 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 Boards' 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 Boards' 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 Boards, including any finding of fact or order of the Boards;
 - c. The petition submitted to the Boards;
 - 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 Boards 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 Boards. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Boards' recommendation. A decision by the Director to reverse or modify the Boards' recommendation will be based on finding that the Boards' 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 Boards' 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.

103-005.05G3 If the Boards deny reinstatement, the Boards will send to the petitioner a written notice of the Boards' recommendation to deny reinstatement. The petitioner may appeal the Boards' decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

103-005.06 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

103-005.06A 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.

103-005.06A1 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; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:

- [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol-related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant;
- 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.

103-005.06A2 If an applicant has practiced while her/his credential was voluntarily surrendered, the Department may:

- 1. Assess an administrative penalty pursuant to 172 NAC 103-006;
- 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.

103-005.06A3 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.

103-005.06A4 In either event pursuant to 172 NAC 103-005.06A2 or 103-005.06A3 a notice and the opportunity for hearing will be given to the applicant.

103-005.06A5 The Department will act within 150 days on all completed applications.

103-005.07 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

103-005.07A 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.

103-005.07B 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 103-006.

103-005.08 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.

103-006 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;
2. Following the expiration of a certificate; or
3. Prior to the reinstatement of a certificate.

103-006.01 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 engaging 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 opens a practice site and announces or advertises that the 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.

103-006.02 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.

103-006.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

103-007 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A CERTIFICATE

103-007.01 The Department, upon the recommendation of the Boards, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against certificates for any of the acts or offenses set forth in Neb. Rev Stat. §§ 71-147 and 71-148 of the Uniform Licensing Law.

103-007.02 The Department, upon the recommendation of the Boards, may deny, refuse renewal of, limit, suspend, revoke, or have other disciplinary measures taken against certificates for unprofessional conduct, which term includes but is not limited to:

1. Misappropriating medications, supplies, or personal items of a patient or agency;
2. Violating the confidentiality of information or knowledge concerning the patient;
3. Committing any act which endangers patient safety or welfare;
4. Practice of the profession without a current active certificate or temporary permit;
5. Failure of a certificate holder, who is the subject of a disciplinary investigation, to furnish the Boards or their investigator with requested information or requested documents;
6. Falsification or misrepresentation of material facts in attempting to procure employment as a CRNA;
7. Intentional falsification of material facts in a material document connected with practice of nursing in the expanded role of anesthesia;
8. Kissing, fondling, touching or engaging in any other activities of a sexual nature with a patient; and

the

9. Violating any term of probation, condition, or limitation imposed on the certificate holder by the Department.

103-008 SCHEDULE OF FEES: The following fees have been set by the Department by this regulation to be paid as a condition of issuance of certification.

103-008.01 Initial Certification Fee: By an applicant for a certificate to practice as a CRNA, 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.

103-008.02 Proration of Initial Certification Fee: For issuance of a certificate that will expire within 180 days after its initial issuance date, the 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.

103-008.03 Certificate Renewal Fee: By an applicant for renewal on a biennial basis of a certificate to practice as a CRNA, 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.

103-008.04 Late Fee: By an applicant for a renewal on a biennial basis of a certificate to practice as a CRNA, 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.

103-008.05 Certification of Certificate Fee: For issuance of a certification of a certificate, the fee of \$25. The certification includes information regarding:

1. The basis on which a certificate was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the certificate; and
4. The current status of the certificate.

103-008.06 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.

103-008.07 Duplicate Certificate Fee: For a duplicate of an original certificate document or reissued certificate, the fee of \$10.

103-008.08 Administrative Fee: For a denied certificate or a withdrawn application, an administrative fee of \$25 will be retained by the Department.

103-008.09 Reinstatement Fee: For reinstatement following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.