

# License Information

# Mental Health Practice

Licensure Unit  
PO Box 94986  
(301 Centennial Mall South)  
Lincoln, NE 68509-4986  
402-471-2117

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# Section 1 - Licensure Statistics

(Active licensees as of 2-02-2010)

## Mental Health Practice

	2-2008	2-2009	2-2010
Independent Mental Health Practitioners (LIMHP)	312	543	710
Mental Health Practitioners (LMHP)	2497	2459	2648
Provisional (PLMHP)	875	908	946
Marriage & Family Therapists (CMFT)	90	92	96
Professional Counselors (CPC)	1054	1045	1117
Master Social Workers (CMSW with LMHP)	762	761	812
MSW with NO MHP License (CMSW)	20	21	22
Social Workers (CSW)	707	646	713

## Psychology

Psychologists	430	425	453
Provisional Psychologists	44	38	40
Psychological Assistant/Associate	86	93	85

## Alcohol and Drug Counseling

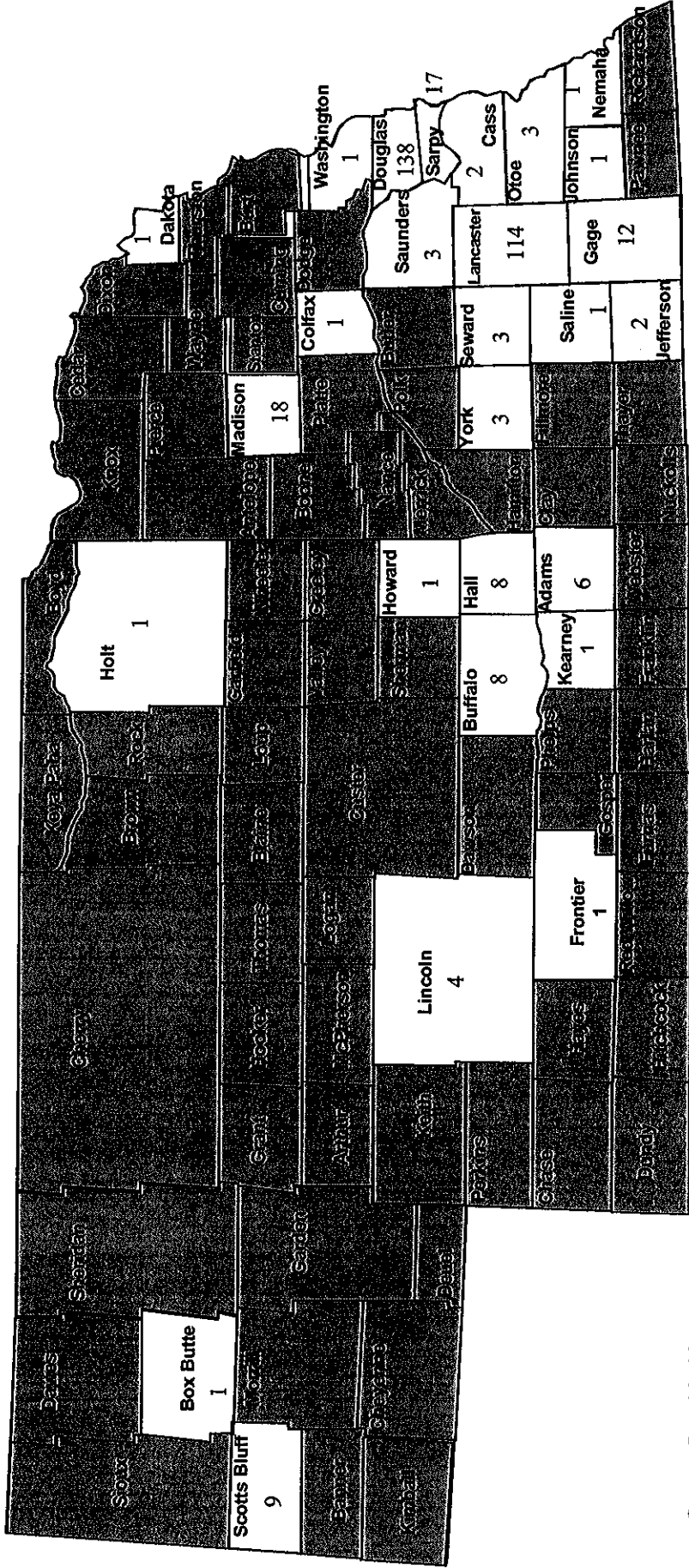
Alcohol and Drug Counselors (LADC)	425	482	540
Provisional Alcohol & Drug Counselors (PLADC)	350	267	303

NOTE: There are approximately 250 individuals who hold both a mental health practice license and an alcohol and drug counseling license.



# Number of Licensed Psychologist (clinical) per County

## Total Licensed in Nebraska 365



Counts Provided by:  
 STATE OF NEBRASKA  
 Credentialing Division  
 P.O. Box 94986  
 Lincoln, NE 6850904986  
 402-471-2117 kris.chiles@hhss.ne.gov

Updated 2/7/07

Based on licensee mailing addresses.



## Section 2 - Mental Health Practice License Information

### Licensure Terms

**LIMHP – Licensed Independent Mental Health Practitioner** is a person who holds himself/herself out as a person qualified to engage in independent mental health practice or a person who offers or renders INDEPENDENT mental health services.

**LMHP - Licensed Mental Health Practitioner** is a person who holds himself/herself out as a person qualified to engage in mental health practice or a person who offers or renders mental health practice services.

1. **LCSW**: A person who is licensed as a mental health practitioner and certified as a master social worker may use the title Licensed Clinical Social Worker (LCSW).
2. **LPC**: A person who is licensed as a mental health practitioner and certified as a professional counselor may use the title Licensed Professional Counselor (LPC).
3. **LMFT**: A person who is licensed as a mental health practitioner and certified as a marriage and family therapist may use the title Licensed Marriage and Family Therapist (LMFT).

### What is Independent Mental Health Practice

**38-2113. Independent mental health practice, defined.** (1) Independent mental health practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Independent mental health practice includes diagnosing major mental illness or disorder, using psychotherapy with individuals suspected of having major mental or emotional disorders, or using psychotherapy to treat the concomitants of organic illness, with or without consultation with a qualified physician or licensed psychologist.

(3) Independent mental health practice does not include the practice of psychology or medicine, prescribing drugs or electroconvulsive therapy, treating physical disease, injury, or deformity, or measuring personality or intelligence for the purpose of diagnosis or treatment planning.

### What is Mental Health Practice

**38-2115. Mental health practice, defined; limitation on practice.** (1) Mental health practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Mental health practice does not include:

- (a) The practice of psychology or medicine;
- (b) Prescribing drugs or electroconvulsive therapy;
- (c) Treating physical disease, injury, or deformity;
- (d) Diagnosing major mental illness or disorder except in consultation with a qualified physician, a psychologist licensed to engage in the practice of psychology as provided in section 38-3111, or a licensed independent mental health practitioner;
- (e) Measuring personality or intelligence for the purpose of diagnosis or treatment planning;
- (f) Using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician, a licensed psychologist, or a licensed independent mental health practitioner; or
- (g) Using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed psychologist.

(3) Mental health practice includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

(4) Nothing in sections 38-2114, 38-2118, and 38-2119 shall be deemed to constitute authorization to engage in activities beyond those described in this section. Persons certified under the Mental Health Practice Act but not licensed under section 38-2122 shall not engage in mental health practice.

## Exceptions from LMHP Licensure

Exceptions from licensure as a mental health practitioner include:

1. Qualified members of other professions who are licensed, certified, or registered by this state from practice of any mental health activity consistent with the scope of practice of their respective professions;
2. Alcohol and drug abuse counselors who are licensed by the Department of Health and Human Services Regulation and Licensure from practicing their profession. Such exclusion includes students or provisional licensees (PLADC) training and working under the supervision of a licensed alcohol and drug counselor (LADC) to become licensed;
3. Any person employed by an agency, bureau, or division of the federal government from discharging his/hers official duties, except that if such person engages in mental health practice in this state outside the scope of such official duty or represents himself or herself as a licensed health practitioner, s/he must be licensed;
4. Teaching or the conduct of research related to mental health services or consultation with organizations or institutions of such teaching, research, or consultation does not involve the delivery or supervision of mental health services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;
5. The delivery of mental health services by:
  - a. Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions; or
  - b. Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional Board;
6. Duly recognized members of the clergy from providing mental health services in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be mental health practitioners;
7. The incidental exchange of advice or support by persons who do not represent themselves as engaging in mental health practice, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as mental health practitioners or their services as mental health practice;
8. Any person employed by an agency or department of the State of Nebraska from discharging official duties within such agency or Department during the six years immediately following September 1, 1994, except that no person should represent himself or herself as a licensed mental health practitioner unless s/he holds such a license;
9. Any person providing emergency crisis intervention or referral services or limited (temporary) services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or a psychologist licensed to engage in the practice of psychology if such persons are not represented as being licensed mental health practitioners or their services are not represented as mental health practice; or
10. Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with mental illness from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

# Licensed INDEPENDENT Mental Health Practitioner Requirements

**Option 1:** (A) Graduated with a masters' or doctoral degree from an educational program which is accredited, at the time of graduation or within four years after graduation, by the Council for Accreditation of Counseling and Related Educational Programs, the Commission on Accreditation for Marriage and Family Therapy Education, or the Council on Social Work Education; **and**  
(B) Is licensed as a mental health practitioner or provisional licensee; **and**  
(C) Has 3,000 hours of experience obtained in a period of not less than 2 nor more than 5 years and supervised by a licensed physician, a licensed psychologist or a Licensed Independent Mental Health Practitioner, one-half (at least 1,500 hours) of which is comprised of experience with clients diagnosed under the major mental illness or disorder category.

**Option 2:** (A) Graduated with a masters' or doctoral degree from an educational program deemed by the board to be equivalent in didactic content and supervised clinical experience to an accredited program identified in Option 1(A); **and**  
(B) Is licensed as a mental health practitioner or provisional licensee; **and**  
(C) Has 3,000 hours of experience obtained in a period of not less than 2 nor more than 5 years and supervised by a licensed physician, a licensed psychologist or a Licensed Independent Mental Health Practitioner, one-half (at least 1,500 hours) of which is comprised of experience with clients diagnosed under the major mental illness or disorder category.

**Option 3:** (A) Graduated from an educational program which does not meet the requirements of Option 1A or 2A; **and**  
(B) Is licensed as a mental health practitioner; **and**  
(C) Has 7,000 hours of experience obtained in a period of not less than 10 years and supervised by a licensed physician, a licensed psychologist or a Licensed Independent Mental Health Practitioner, one-half (at least 3,500) of which is comprised of experience with clients diagnosed under the major mental illness or disorder category.

**If the applicant for a LIMHP is provisionally licensed, s/he must also pass the written examination for MHP licensure.**

**All applicants must be a citizen of the United States, or an alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA and who is eligible for a credential under the Uniform Credentialing Act, or a non immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States.**

**NOTE: If the applicant desires to attain ONLY the license as a Mental Health Practitioner (LMHP), then the licensee must seek consultation from a Licensed Psychologist or Qualified Physician for clients with major mental disorders.**

**Consultation** means a professional collaborative relationship between a licensed mental health practitioner and a consultant who is a licensed psychologist, a qualified physician, or licensed independent mental health practitioner in which:

1. The consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant; and
2. The consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.

**NOTE: Pursuant to 38-2116**

A person who is licensed as an independent mental health practitioner **and certified as a master social worker** may use the title licensed independent clinical social worker.

A person who is licensed as an independent mental health practitioner **and certified as a professional counselor** may use the title licensed independent professional counselor.

A person who is licensed as an independent mental health practitioner **and certified as a marriage and family therapist** may use the title licensed independent marriage and family therapist.

# Licensed Mental Health Practitioner Requirements

No person may represent himself/herself to be a mental health practitioner unless licensed and no person shall engage in the practice of mental health unless s/he is licensed, except individuals who meet the criteria pursuant to Neb. Rev. Stat. §§38-2121. To obtain a license, an applicant must:

1. Have a master's or doctorate degree of which the course work and training leading to the degree was primarily therapeutic mental health in content as defined in the Education section, and included a practicum or internship. A practicum or internship which is completed after September 1, 1995, must include a minimum of 300 clock hours of direct client contact under supervision;
2. Have 3,000 hours of supervised experience in mental health practice as defined in Experience section. The hours must have been earned after receipt of the master's degree and during the 5 years immediately preceding the application of license;
3. Have passed the mental health practice examination;
4. Have attained at least the age of majority and have good character; and
5. Is a citizen of the United States, or an alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a non immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States.

**Education:** Must have a master's or doctorate degree as follows:

Approved Mental Health Practice Program means an approved educational program consisting of a master's or doctoral degree, with the focus being primarily therapeutic mental health, from an institution of higher education approved by the Council for Higher Education Accreditation (CHEA) or its successor; and must meet either subsection 1 or 2 as follows:

1. Accredited Programs: The program must be accredited by one of the following accrediting agencies (a program in candidacy does not meet this section):
  - a. Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE);
  - b. Council for Accreditation of Counseling and related Educational Programs (CACREP);
  - c. Council on Social Work Education (CSWE); or
  - d. American Psychological Association (APA).

The program must also include a practicum or internship as follows:

- a. For individuals who completed the practicum/internship before September 1, 1995, the practicum/internship must have been from an approved educational program.
  - b. For individuals who completed the practicum/internship after September 1, 1995, the practicum/internship must have included a minimum of 300 clock hours of direct client contact of which 150 clock hours must be face-to-face in a work setting, under the supervision of a qualified supervisor as defined in 172 NAC 94-002. Any artificial situation where a person presents a problem, such as role playing, is not acceptable; or
2. Other Programs: If the program is not accredited by the agencies identified in section 1 above, the Graduate course work, must have an emphasis on the provision of mental health practice, and include coursework in each of the following:
    - a. A supervised practicum or internship:
      - (1) If an applicant completed the practicum/internship before September 1, 1995, the practicum/internship must have been from an approved educational program.

- (2) If an applicant completed the practicum/internship after September 1, 1995, the practicum/internship must have included a minimum of 300 clock hours of direct client contact of which 150 clock hours must be face-to-face in a work setting, under the supervision of a qualified supervisor as defined in the definition section. Any artificial situation where a person presents a problem, such as role playing, is not acceptable.
- b. Theories and Techniques: At least 6 semester hours or 9 quarter hours. Courses that cover therapeutic techniques and strategies for human behavioral intervention. This includes major contributions of the biological, behavioral, cognitive, and social sciences relevant to understanding assessment and treatment of the person and his/her environment with emphases on the social systems framework, personality theories and development through the life cycle, and their application.
  - c. Professional Ethics: At least 3 semester hours or 4.5 quarter hours. The application of ethical and legal issues to the practice. Examples are: family law, codes of ethics, boundaries, peer review, record keeping, confidentiality, informed consent, and duty to warn.
  - d. Assessment Techniques: At least 3 semester hours or 4.5 quarter hours. Includes the process of collecting pertinent data about client or client systems and their environment and appraising the data as a basis for making decisions regarding treatment and/or referral. Examples are: ability to make a clinical diagnostic impression, knowledge of psychopathology, and assessment of substance abuse and other addictions.
  - e. Human Growth and Development: At least 3 semester hours or 4.5 quarter hours. The integration of the psychological, sociological and biological approaches within the life cycle. Examples are: awareness of culture, gender, or human sexuality at developmental levels, human behavior (normal and abnormal), personality theory, and learning theory.
  - f. Research and Evaluation: At least 3 semester hours or 4.5 quarter hours. Includes such areas as statistics or research design and development of research and demonstration proposals.
  - g. Undergraduate Courses: Graduate programs accepting an undergraduate course(s) as meeting the course criteria in subsection 2b through 2f will be acceptable. The school must submit a notarized letter, on institutional letterhead, from an authorized person, i.e., the Department Chair of the program, stating the undergraduate course(s) was accepted to meet the educational requirement(s) of the master's degree.

**Experience:** Have 3,000 hours of supervised experience in mental health practice (see definition section). The hours must have been earned after receipt of the master's degree and during the 5 years immediately preceding the application of license. To earn these hours in Nebraska, a person must first obtain a **LICENSE AS A PROVISIONAL MENTAL HEALTH PRACTITIONER (PLMHP)**. Any hours earned in Nebraska prior to the receipt of the provisional license may not be considered for a license as a mental health practitioner and may result in assessment of an administrative penalty fee.

To obtain a PLMHP, the applicant must:

1. Have a master's or doctorate degree as defined in the Education section;
2. Have arranged supervision with a qualified supervisor in Nebraska;
3. Have attained at least the age of majority and be of good moral character; and
4. Submit a complete application and fee (\$125.00).

**Expiration of a PLMHP:** A provisional mental health practice license expires upon the following conditions:

1. Termination of supervision agreement or change in supervisor; or
2. Receipt of the licensure as a mental health practitioner or 5 years after the date of issuance, whichever comes first.

An individual who does not complete the hours required for licensure within the specified 5 year period may re-apply one time for another provisional license; however, the hours of experience will only count when earned within 5 years of making application for (full) licensure.

**Client Notification:** An individual who holds a provisional mental health practitioner license must inform all clients that s/he holds a provisional license and is practicing mental health under supervision and must identify the supervisor. Failure to make such a disclosure is a ground for discipline as set forth in Neb. Rev. Stat. §38-178.

**Change of Supervisor:** An individual who changes his/her supervisor or adds a new supervisor must submit an application within 30 days following the change.

**Termination of Supervision:** If a supervisor or provisional licensee terminates supervision, s/he must notify the Department in writing immediately of the date of termination. The Department will record said termination date in the record.

**Examination:** Have passed the mental health practice. A mental health practitioner who does not qualify by his/her educational degree for one of the associated certifications must take the National Board for Certified Counselors National Clinical Mental Health Counselor Examination (NCMHCE) or the National Counselor Examination (NCE). Other examinations determined by the Board to be equivalent may be accepted in place of the NCMHCE or the NCE, for example, the EPPP.

1. **Professional Counseling:** An individual who by reason of educational background is qualified to be certified as a certified professional counselor must take the National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the National Clinical Mental Health Counselor Examination (NBCC/NCMHCE) and pass with a minimum score set at the National Cut Score.
2. **Marriage and Family Therapy:** An individual who by reason of educational background is qualified to be certified as a marriage and family therapist must take the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination and pass with a minimum score set at the National Pass Point.
3. Any other examination determined by the Board to be equivalent with a minimum score determined by the Board. The Examination for Professional Psychologists (EPPP) is also an acceptable examination.

**Good Character/Convictions/Licensure Action:** Have attained at least the 19 years of age and have good character.

1. If the applicant holds a license (health care) in another state and said licensed has been disciplined, s/he must submit an official copy of the disciplinary action, including charges and disposition;
2. If the applicant has **EVER** been convicted of a felony or misdemeanor, s/he must submit:
  - a. Official Court Record, which includes charges and disposition;
  - b. Copies of arrest records;
  - c. BAC level (if conviction was alcohol related);
  - d. A letter from the applicant explaining the nature of the conviction;
  - e. 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
  - f. A letter from the probation officer addressing probationary conditions and current status, if on probation at the time the application is submitted to the department.

On your initial application for licensure in Nebraska, you must list any felony or misdemeanor convictions, no matter where they occurred or how long ago they occurred. Failure to list convictions may result in denial of the license or discipline (such as a probationary license), as this can be viewed as misrepresentation of material facts. Remember, as the applicant, you are attesting to the fact that all statements on the application are true and complete.



The Department commonly finds that applicants fail to submit convictions that may have occurred when the individual was a minor. While this may have been several years ago or longer, by law, you are still required to disclose this information on your initial application for licensure. If the applicant is not sure if a ticket or arrest resulted in a misdemeanor or felony conviction, we suggest that you contact the court in the county where you were ticketed or arrested. Additionally, not all juvenile offenses are sealed; therefore, it's to your benefit to double check with the county court.

The following provides just a small **sampling** of misdemeanor convictions:

<ul style="list-style-type: none"><li>• MIP</li><li>• DUI / DWI</li><li>• Controlled Substance</li><li>• Shoplifting / Theft / Burglary</li><li>• Disturbing the Peace</li><li>• Assault</li><li>• Bad Check</li><li>• Disorderly Conduct</li><li>• Reckless Driving</li><li>• Driving under Suspension / Revocation</li></ul>	<ul style="list-style-type: none"><li>• License Vehicle without Liability Insurance</li><li>• Fail to Appear in Court</li><li>• False Information</li><li>• Leave the Scene of an Accident</li><li>• Operator not Carrying License</li><li>• Unlawful Display of Plates/Renewal tabs</li><li>• Park Rule Violation / Curfew Violation</li><li>• Dog at Large</li><li>• Littering</li><li>• Tobacco Use by Minor</li></ul>
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**Licensee:** Once the applicant obtains his/her license, if s/he has any criminal charges or license disciplinary actions pending that result in a conviction or license discipline, the licensee is required to report (in writing) such actions to the investigative office within **30 days of the date of the conviction**. Along with the report, the licensee is also required to submit items 1-4 (as applicable) listed above. Failure to do so is grounds for discipline.

To report a conviction, the licensee should view the directions on the following web site:  
<http://www.dhhs.ne.gov/reg/INVEST-P.HTM>

**Citizenship or Lawful Presence in the United States:** To obtain a license in Nebraska, all applicants must provide a Social Security Number (SSN), or Alien Registration Number ("A#") or Form I-94 (Arrival-Departure Record) number. In addition to providing this information, you must also submit a **copy** of at least one of the following documents:

- (1) A U.S. Passport (unexpired or expired);
- (2) A birth certificate issued by a state, county, municipal authority bearing an official seal (hospital copies are not acceptable);
- (3) An American Indian Card (I-872);
- (4) A Certificate of Naturalization (N-550 or N-570);
- (5) A Certificate of Citizenship (N-560 or N-561);
- (6) Certification of Report of Birth (DS-1350);
- (7) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240);
- (8) Certification of Birth Abroad (FS-545 or DS-1350);
- (9) A United States Citizen Identification Card (I-197 or I-179);
- (10) A Northern Mariana Card (I-873);
- (11) An Alien Registration Receipt Card (Form I-551, otherwise known as a "Green Card");
- (12) An unexpired foreign passport with an unexpired Temporary I-551 stamp
- (13) A document showing an Alien Registration Number ("A#") with visa status; or
- (14) A Form I-94 (Arrival-Departure Record) with visa status;

If you **are not a citizen** of the United States, you must also attest that for the purpose of complying with Neb. Rev. Stat. §4-108 through 4-114, you are a qualified alien under the Federal Immigration and Nationality Act and provide your immigration and alien number and I agree to provide a copy of your USCIS document.

**Administrative Penalty/Other Action:** An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty fee of \$10 per day up to \$1,000 or such other disciplinary action as provided in the statutes and regulations governing the credential.



# Marriage and Family Therapy

**94-005.05 INITIAL CERTIFICATION** - Any person who represents himself/herself as a certified marriage and family therapist, must be certified as a marriage and family therapist. An applicant for a certificate to represent oneself as a certified marriage and family therapist by examination must:

1. Be licensed, or qualify for licensure and have made application for a license as a mental health practitioner;
2. Have received a master's or doctoral degree in marriage and family therapy from a program approved by the Board or a graduate degree in a field determined by the Board to be related to marriage and family therapy and graduate-level course work determined by the Board to be equivalent to a master's degree in marriage and family therapy as defined in 172 NAC 94-002;

Approved Marriage and Family Therapy Program means:

COAMFTE Accreditation: A program of graduate marriage and family therapy education and training approved by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or

Related Field: A program in a related field offered by a regionally accredited higher educational institution, such as, but not limited to social work, psychology, sociology, human services, human development, family relations or counseling, must show evidence of course work in the following:

- a. Marriage and Family Studies: At least 9 semester hours or 13.5 quarter hours.
- b. Marriage and Family Therapy: At least 9 semester hours or 13.5 quarter hours.
- c. Human Development: At least 9 semester hours or 13.5 quarter hours.
- d. Professional Studies: At least 3 semester hours or 4.5 quarter hours.
- e. Research: At least 3 semester hours or 4.5 quarter hours.
- f. Practicum: At least 6 semester hours or 9 quarter hours which includes 300 hours of supervised direct client contact with individuals, couples and families - of these 300 hours, no more than 150 hours may be with individuals.

3. Have received at least 3,000 hours of experience in marriage and family therapy under a qualified supervisor as defined in 172 NAC 94-002 following receipt of the graduate degree;

Supervision for Marriage and Family Therapy Certification must also include:

1. A minimum of 1,500 hours of direct client contact with a minimum cumulative ratio of 2 hours of face-to-face contact between the supervisee and a qualified supervisor per 15 hours of the supervisee's contact with clients, no more than 45 hours may be accumulated without supervision;
2. The supervisor can not supervise more than 6 persons at 1 face-to-face supervisory setting; and
3. Not more than 1,500 hours of supervised experience, which includes, but is not limited to, review of client records, case conferences, direct observation, and video observation.

For marriage and family therapy certification a licensed mental health practitioner, licensed psychologist, or licensed physician who:

- a. Holds a current active license;
  - b. Has not had his/her license disciplined, limited, suspended, or placed on probation during the 1 year immediately preceding the application for a provisional license. At least 1 year must have elapsed following completion of any disciplinary terms and conditions. If any of these actions are taken by the Department during the supervisory agreement period, the supervisor must terminate the supervision immediately and notify the Department; and
  - c. Holds an "approved supervisor's" designation certificate from the American Association for Marriage and Family Therapy; or
  - d. Provides evidence of training in clinical supervision equivalent to 15 hours. Evidence must be shown through academic course work, continuing education, or consultation with a qualified marriage and family therapy supervisor, and has 3 years of experience supervising the provision of marriage and family therapy services.
4. Pass the AMFTRB certification examination with a minimum score set at the National Pass Point; and
  5. Have attained at least 19 years of age, have good moral character and is a citizen of the United States, or an alien lawfully admitted into the United States for permanent residence under the Immigration and Naturalization Act (INA) and who is eligible for a credential under the Uniform Credentialing Act, or a non-immigrant whose visa for entry, or application for visa for entry, is related to such employment in the United States.

## Grounds on Which the Department May Deny, Refuse Renewal of or Discipline a Licensee and/or Certificate Holder

94-015.01 The Department will deny an application for a license and/or certificate when the applicant fails to meet the requirements for license and/or certification of any of the provisions of 172 NAC 94-003 through 94-0046, or is found to be in violation of any of the provisions of 172 NAC 94-015.

94-015.02 The Department will refuse renewal of a license and/or certificate if the licensee and/or certificate holder fails to meet the requirements specified in 172 NAC 94-010 or 94-0011, or in 94-0012.

94-015.03 The Department may deny, refuse renewal of, limit, suspend, or revoke a license and/or certificate for any of the following grounds and other grounds found in Neb. Rev. Stat. § 38-178:

Except as otherwise provided in sections 38-1,119 to 38-1,123, a credential to practice a profession may be denied, refused renewal, or have other disciplinary measures taken against it in accordance with section 38-185 or 38-186 on any of the following grounds:

- (1) Misrepresentation of material facts in procuring or attempting to procure a credential;
- (2) Immoral or dishonorable conduct evidencing unfitness to practice the profession in this state;
- (3) Abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance;
- (4) Failure to comply with a treatment program or an aftercare program, including, but not limited to, a program entered into under the Licensee Assistance Program established pursuant to section 38-175;
- (5) Conviction of (a) a misdemeanor or felony under Nebraska law or federal law, or (b) a crime in any jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony under Nebraska law and which has a rational connection with the fitness or capacity of the applicant or credential holder to practice the profession;
- (6) Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with gross incompetence or gross negligence, or (d) in a pattern of incompetent or negligent conduct;
- (7) Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability;
- (8) Physical or mental incapacity to practice the profession as evidenced by a legal judgment or a determination by other lawful means;
- (9) Illness, deterioration, or disability that impairs the ability to practice the profession;
- (10) Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a credential by a person not credentialed to do so;
- (11) Having had his or her credential denied, refused renewal, limited, suspended, revoked, or disciplined in any manner similar to section 38-196 by another state or jurisdiction based upon acts by the applicant or credential holder similar to acts described in this section;
- (12) Use of untruthful, deceptive, or misleading statements in advertisements;
- (13) Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
- (14) Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
- (15) Violations of the Uniform Credentialing Act or the rules and regulations relating to the particular profession;
- (16) Unlawful invasion of the field of practice of any profession regulated by the Uniform Credentialing Act which the credential holder is not credentialed to practice;
- (17) Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
- (18) Failure to file a report required by section 38-1,124 or 38-1,125;
- (19) Failure to maintain the requirements necessary to obtain a credential;
- (20) Violation of an order issued by the department;
- (21) Violation of an assurance of compliance entered into under section 38-1,108;
- (22) Failure to pay an administrative penalty;
- (23) Unprofessional conduct as defined in section 38-179; or
- (24) Violation of the Automated Medication Systems Act.

**38-2139. Additional grounds.** In addition to the grounds for disciplinary action found in sections 38-178 and 38-179, a credential subject to the Mental Health Practice Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-196 when the applicant or licensee fails to disclose the information required by section 38-2123 or 38-2129.

**94-016 UNPROFESSIONAL CONDUCT:** For purposes of section 38-178, unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

- (1) Receipt of fees on the assurance that an incurable disease can be permanently cured;
  - (2) Division of fees, or agreeing to split or divide the fees, received for professional services with any person or his or her office or clinic, (b) with a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts, (c) with a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement, or (d) by a person credentialed pursuant to the Water Well Standards and Contractors' Practice Act;
  - (3) Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;
  - (4) Cheating on or attempting to subvert the credentialing examination;
  - (5) Assisting in the care or treatment of a consumer without the consent of such consumer or his or her legal representative;
  - (6) Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that such person is entitled to practice a profession for which he or she is not credentialed;
  - (7) Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
  - (8) Knowingly disclosing confidential information except as otherwise permitted by law;
  - (9) Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;
  - (10) Failure to keep and maintain adequate records of treatment or service;
  - (11) Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;
  - (12) Prescribing any controlled substance to (a) oneself or (b) except in the case of a medical emergency (i) one's spouse, (ii) one's child, (iii) one's parent, (iv) one's sibling, or (v) any other person living in the same household as the prescriber;
  - (13) Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;
  - (14) Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with such care; and
  - (15) Such other acts as may be defined in rules and regulations.
- Nothing in this section shall be construed to exclude determination of additional conduct that is unprofessional by adjudication in individual contested cases.

**In addition to the above, 172 NAC 94 defines unprofessional conduct as follows:**

**Competence:** A mental health practitioner, certified master social worker, certified social worker, certified professional counselor, or certified marriage and family therapist must not provide services for which s/he is not trained or experienced. Unprofessional conduct in the practice of mental health services, social work, professional counseling, or marriage and family therapy includes but is not limited to:

1. Committing any act which endangers patient/client safety or welfare; or
2. Failure to adhere to or departure from the standards of acceptable and prevailing practice in mental health practice, social work, professional counseling, or marriage and family therapy.

**Confidentiality:** A licensee/certificate holder must hold in confidence information obtained from a patient/client, except in those unusual circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required by law.

**Professional Relationships:** A licensee/certificate holder must safeguard the welfare of patients/clients and maintain professional relationships with patients/clients. Commission of any of the following acts or behavior constitutes unprofessional conduct.

1. Exploiting another person for one's own advantage;
2. Performing or agreeing to perform mental health services, social work, professional counseling, or marriage and family therapy that have been requested when such services are known to be contraindicated or unjustified;

3. Performing or agreeing to perform procedures that have been requested when such procedures are known to be outside of the mental health practice, social work, professional counseling, or marriage and family therapy scope of practice;
4. Verbally or physically abusing patients/clients;
5. Falsification or unauthorized destruction of patients/clients records;
6. Attempting to provide diagnostic or treatment information to patient's/client(s) that is beyond the licensee/certificate holder's level of education, training and expertise;
7. Delegating to other personnel those patient/client related services for which the clinical skills and expertise of a licensee/certificate holder are required;
8. Encouraging or promoting the practice of mental health services, social work, professional counseling or marriage and family therapy by untrained or unqualified persons; or
9. Failure to safeguard the patient's/client's dignity and right to privacy.

**Sexual Harassment:** A licensee/certificate holder must not under any circumstances engage in sexual harassment of patients/clients.

1. Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:
  - a. Providing or denying care to a patient/client;
  - b. Creating an intimidating, hostile, or offensive environment for the patient/client; or
  - c. Interfering with a patient's/client's ability to recover.

**Dual Relationship:** Licensees and/or certificate holders must make every effort to avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, licensees and/or certificate holders should take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs. Examples of such dual relationships include, but are not limited to, business or close personal relationships with a client. Sexual intimacy with a client 6 months preceding the provision of professional services is prohibited. Sexual intimacy with a former client for 2 years following the termination of therapy is prohibited.

1. Sexual Intimacy means any written, verbal, or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning. Sexual intimacy may or may not include sexual contact.
  - a. Sexual contact is defined as sexual intercourse, either genital or anal, cunnilingus, fellatio, sodomy or the handling of breasts, genital areas, buttocks, or thighs whether clothed or unclothed, initiated or consented to by licensee.

In the therapeutic relationship, licensees are aware of the intimacy and responsibilities inherent in the therapeutic relationship and must avoid actions that seek to meet their personal needs at the expense of clients. Licensees are aware of their influential positions with respect to clients, and they must avoid exploiting the trust and dependency of such persons. Licensees, therefore, must make every effort to avoid conditions and multiple relationships with clients that could impair professional judgement or increase the risk of exploitation.

## **Disclosure of Confidential Information**

A LMHP, LMFT, LPC, LCSW, PLMHP or PMSW must not disclose any information s/he may have acquired from any person consulting him/her in his/her professional capacity except:

1. With the written consent of such person;
2. In the case of death or disability, of the person's personal representative, any other person authorized to sue on behalf of the person, or the beneficiary of an insurance policy on the person's life, health, or physical condition;
3. When more than one person in a family received therapy conjointly, each such family member who is legally competent to execute a waiver must agree to the waiver referred to in this section. Without such a waiver from each family member legally competent to execute a waiver, a practitioner must not disclose information received from any family member;

4. As such privilege is limited by the laws of the State of Nebraska or as the board may determine by rule and regulation;
5. When the person waives the privilege by bringing charges against the licensee/certificate holder;
6. When there is a duty to warn under the limited circumstances set forth in 172 NAC 94-018;
7. There is no monetary liability on the part of, and no cause of action will arise against, any person who is licensed or certified pursuant to 172 NAC 94-003 through 94-006 for failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except when the patient has communicated to the licensee and/or certificate holder a serious threat of physical violence against himself, herself, or a reasonably identifiable victim or victims;
8. The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified in 172 NAC 94-018. The duty is discharged by the licensee and/or certificate holder if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.
9. No monetary liability and no cause of action will arise under 172 NAC 94-018 against a licensee or certificate holder for information disclosed to third parties in an effort to discharge a duty arising under 172 NAC 94-018.

# Definitions

## **Direct Client Contact** means:

1. During a practicum direct client contact is contact between the practicum student and a **client system**, including **collateral contacts**, while providing mental health services. Supervisory sessions involving only the practicum student and supervisor will not be considered as direct client contact.
2. During completion of the 3,000 hours of supervised experience to fulfill postgraduate requirements for licensure direct client contact is face-to-face contact between a **client system** and a provisionally licensed mental health practitioner (PLMHP) while providing mental health services. Supervisory sessions involving only the PLMHP and supervisor will not be considered as direct client contact.

Client or Client System means an individual, couple, family or group in a professional work setting.

Collateral Contact means interactions with individuals on behalf of a client, but not necessarily in the presence of the client, that support, reinforce or otherwise affect the treatment process. Supervision is not considered as collateral contact.

## **Examination** means:

1. The Association of Social Work Boards (ASWB) Clinical examination (previously referred to as the Level C category);
2. The Association of Marital and the Family Therapy Regulatory Boards (AMFTRB);
3. The National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or the National Clinical Mental Health Counselor Examination (NBCC/NCMHCE);
4. The Examination for Professional Practice in Psychology (EPPP); or
5. An equivalent examination as determined by the Board.

An applicant who by reason of educational background is eligible for certification as a Certified Master Social Worker, a Certified Professional Counselor, or a Certified Marriage and Family Therapist must take and pass the appropriate certification examination; those not eligible for certification in an associated field must take and pass the NBCC/NCE, NBCC/NCMHCE, or other examination as determined by the Board to be equivalent.

## **Internship or Practicum** means:

1. For mental health practice it is the experience that an intern gained in a program of higher education accredited by the accrediting agency for the Council for Higher Education Accreditation (CHEA) or its successor. Internships or practicums completed after September 1, 1995, must include a minimum of 300 clock hours of direct client contact under the supervision of:
  - a. Hours earned Before September 1, 1994: A **qualified physician**, a licensed clinical psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on September 1, 1994, for any hours completed before September 1, 1994; or
  - b. Hours earned After September 1, 1994: A **qualified physician**, a licensed psychologist, a licensed mental health practitioner for any hours completed after September 1, 1994, or an equivalent license in another jurisdiction;

Qualified Physician means an individual with a current license to practice medicine and surgery and has specialized training in mental health treatment or is a Board Certified Psychiatrist.

2. For marriage and family therapy, it is defined in CMFT Education Section; and
3. For professional counseling, it is defined in CPC Education Section.

**Mental Health Practice** means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations; and includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

Mental health practice **does not include**:

- a. The practice of psychology or medicine;
- b. Prescribing drugs or electroconvulsive therapy;
- c. Treating physical disease, injury, or deformity;
- d. Diagnosing major mental illness or disorder **except in consultation** with a qualified physician or licensed clinical psychologist;
- e. Measuring personality or intelligence for the purpose of diagnosis or treatment planning;
- f. Using psychotherapy with individuals suspected of having **major mental or emotional disorders except in consultation** with a qualified physician or licensed clinical psychologist; or
- g. Using psychotherapy to treat the concomitants of organic illness **except in consultation** with a qualified physician or licensed clinical psychologist.

**Consultation** means a professional collaborative relationship between a licensed mental health practitioner and a consultant who is a licensed psychologist or a qualified physician in which:

1. The consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant; and
2. The consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.

**Major Mental Disorder** means any mental and emotional disorder in which the following behaviors occur or might reasonably be expected to occur regardless of specific diagnoses or the nature of the presenting complaint:

1. Persistent and/or severe suicidal or homicidal thinking and/or behaviors;
2. Persistent and/or severe behaviors injurious to self and/or others;
3. Psychotic symptoms which include delusions, hallucinations, or formal thought disorders; or
4. Physical complaints or signs suggestive of deterioration or anomaly in physiological, psychophysiological or neuropsychological functioning.

The following diagnoses as referenced in the current edition of the Diagnostic and Statistical Manual of Mental Disorders and the International Classification of Diseases are major mental disorders:

1. Schizophrenia;
2. Major depressive disorder;
3. Bipolar disorder;
4. Delusional disorder;
5. Psychotic disorder;
6. Panic disorder; and
7. Obsessive compulsive disorder.

Certain diagnoses which are referenced in the current edition of the Diagnostic and Statistical Manual of Mental Disorders and the International Classification of Diseases, such as dissociative disorders, post traumatic stress disorder, dissociative identity disorder, severe eating disorder, and borderline personality disorder, are more likely than others to demonstrate one or more of the above behavioral criteria, although these diagnoses alone do not constitute a major mental disorder.

Persons who have exhibited behaviors consistent with a major mental disorder in the past have an increased probability of exhibiting such behaviors in the future, especially under stress.

**Qualified Supervisor** means an individual who assumes the responsibility of supervision during the 3,000 hours of post-master's experience.

1. **For marriage and family therapy certification** a licensed mental health practitioner, licensed psychologist, or licensed physician who:
  - a. Holds a current active license;
  - b. Has not had his/her license disciplined, limited, suspended, or placed on probation during the 1 year immediately preceding the application for a provisional license. At least 1 year must have elapsed following completion of any disciplinary terms and conditions. If any of these actions are taken by the Department during the supervisory agreement period, the supervisor must terminate the supervision immediately and notify the Department; and
  - c. Holds an "approved supervisor's" designation certificate from the American Association for Marriage and Family Therapy; or
  - d. Provides evidence of training in clinical supervision equivalent to 15 hours. Evidence must be shown through academic course work, continuing education, or consultation with a qualified marriage and family therapy supervisor, and has 3 years of experience supervising the provision of marriage and family therapy services.
  
2. **For mental health practice licensure** a qualified physician, a licensed psychologist, a licensed mental health practitioner, or a similar license/certification in another jurisdiction, who:
  - a. Holds a current active license; and
  - b. Has not had his/her license disciplined, limited, suspended, or placed on probation during the 1 year immediately preceding the application for a provisional license. At least 1 year must have elapsed following completion of any disciplinary terms and conditions. If any of these actions are taken by the Department during the supervisory agreement period, the supervisor must terminate the supervision immediately and notify the Department.

**Supervision** means the successful completion of 3,000 hours of supervised experience after receipt of the master's degree and during the 5 years immediately preceding the application for licensure and/or certification. The supervised experience must:

1. Focus on raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings;
2. Include a process which is distinguishable from personal psychotherapy or didactic instruction; and
3. Consist of at least 1,500 hours of direct client contact in a setting where mental health services are being offered during which:
  - a. The supervisee appraises the supervisor of the diagnosis and treatment of clients;
  - b. The clients' cases are discussed;
  - c. Ethical principles of the profession are discussed;
  - d. The supervisor provides the supervisee with oversight and guidance in treating and dealing with clients; and
  - e. The supervisor evaluates the supervisee's performance.

**Supervision for Marriage and Family Therapy Certification** must also include:

1. A minimum of 1,500 hours of direct client contact with a minimum cumulative ratio of 2 hours of face-to-face contact between the supervisee and a qualified supervisor per 15 hours of the supervisee's contact with clients, no more than 45 hours may be accumulated without supervision;
2. The supervisor can not supervise more than 6 persons at 1 face-to-face supervisory setting; and
3. Not more than 1,500 hours of supervised experience, which includes, but is not limited to, review of client records, case conferences, direct observation, and video observation.

Supervision for Mental Health Practice must also include:

1. A minimum of 1,500 hours of direct client contact in a setting where mental health services are being offered.
2. No more than 1,500 hours of non-direct service, which includes, but is not limited to, review of client records, case conferences, direct observation, and video observation.
3. Evaluative face-to-face contact for a minimum of 1 hour per week between the supervisee and supervisor.

# Administrative Penalty

The Department may assess an administrative penalty when evidence exists that a person or entity practices without a license. Practice without a license for the purpose of this regulation means practice:

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

**Evidence of Practice:** The Department will consider any of the following conditions as prima facie evidence of practice without a license:

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 opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

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

**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 license. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must 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.

**Administrative Hearing:** When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

**Where does the money go that is collected?** The money is transmitted to the State Treasurer for credit to the permanent school fund. (Neb. Rev. Stat. §38-1,116)

**What happens if I do not pay the administrative penalty?** An unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected by a collection agency or 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. Additionally, failure to pay the administrative penalty fee is grounds for denial of your license or renewal or other disciplinary action.

**What if I disagree with the assessment of the fee?** If you can provide evidence that the number of days you indicated as practicing or operating was calculated wrong, then you can submit such evidence for consideration of a reduced fee. If you are contesting the assessment of the administrative penalty in total, you must request a hearing, which will be held before the Department (similar to a court hearing) pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and 184 NAC 1, Rules of Practice and Procedure before the Department.

## Licensee Assistance Program (LAP)

The Licensee Assistance Program (LAP) is an assessment, education, referral, case management, and monitoring service designed to help credential holders of the State of Nebraska work through substance abuse/addiction problems.

The LAP services are free. However, in some cases treatment from a community resource agency may be needed. If further assistance is needed, the LAP Coordinator will help refer the Licensee to the most appropriate agency. When a treatment referral is made, those expenses become the responsibility of the credential holder.

This program was established by Neb. Rev. Stat. 71-172.02 (1991), changed to 38-175 and is funded by the fees collected for each license issued, renewed, or reinstated.

### Frequently Asked Questions:

#### **Q: What is the Nebraska Licensee Assistance Program?**

The Licensee Assistance Program (NE LAP) is an assessment, education, referral, case management, and monitoring service designed to help licensees, certificate holders, and registrants of the state of Nebraska work through substance abuse/addiction problems.

#### **Q: Who is eligible for the NE LAP?**

Most professionals who currently hold a license, certification, or registration by the state of Nebraska are eligible. If you have questions regarding eligibility you can call the NE LAP toll-free telephone number (800) 851-2336 for further information.

#### **Q: What is the cost?**

The NE LAP services are free. However, in some cases treatment from a community resource may be needed. If further assistance is needed, the NE LAP coordinator will help refer licensees to the most appropriate provider. When a treatment referral is made, those expenses become the responsibility of the licensee.

#### **Q: What help is available?**

Licensees can discuss substance abuse problems openly and confidentially with the professionally trained NE LAP coordinator. The NE LAP coordinator helps provide an objective viewpoint and guides the licensee toward a better understanding of the substance abuse problem, its causes, and its resolution.

#### **Q: What is meant by confidential help?**

Referral to the NE LAP is not the same as reporting to a Nebraska Licensing Board. Individuals, employers and colleagues may be able to report licensees to the NE LAP and access the services available prior to state involvement with licensure issues. All information gathered is released only with the licensee's written authorization.

In some cases a report may need to be made to the state, once it has been determined that continued practice would pose a danger to public health and safety, or the licensee fails to comply with their treatment plan.

#### **Q: I live outside the NE LAP office area, can the NE LAP still help?**

The NE LAP contracts with affiliate providers throughout the state of Nebraska to provide assessments for licensees outside the NE LAP office area. These assessments are also free of charge when scheduled by the NE LAP coordinator.

If you are questioning whether you or a colleague need help, or you are concerned about a health care professional's possible alcohol or drug problems please contact the NE LAP at (800) 851-2336 or (402) 354-8055 where confidential help is available.

Nebraska Licensee Assistance Program  
Center Pointe Professional Plaza  
9239 West Center Road  
Omaha, NE 68124  
(402) 354-8055 (800) 851-2336  
www.lapne.org

# Section 3

## Disciplinary Process Investigative Case Resolutions Action Taken Mandatory Reporting Investigative Division Web Site

### Disciplinary Process

#### 1. The Boards' Role in Discipline

As part of ensuring that only competent individuals continue to be licensed in Nebraska, the Department of Health and Human Services, Division of Public Health may refuse renewal, limit, revoke, suspend or take other disciplinary measures against the license, certificate or registration of an individual. The grounds for disciplinary action are set out in §38-178 and §38-179.

One of the grounds for disciplinary action, unprofessional conduct, is defined as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Examples of unprofessional conduct are spelled out in Neb. Rev. Stat. §38-179. That section also provides that boards may, through rules and regulations, with the approval of the Department, specify other acts that may be considered unprofessional conduct.

Most disciplinary actions are initiated after the filing of a complaint. A complaint can be made by a consumer, another licensee, an organization, or by a board. Complaint forms are available from the Investigations Division of the Division of Public Health.

#### 2. The Boards may review complaints and provide consultation to the Investigations Division and the Attorney General's Office during the screening of complaints and during investigations.

A board can designate one of its professional members to serve as a consultant to the Department in reviewing complaints and on issues of professional practice that arise during the course of an investigation. The consultation is not required for the Department to evaluate a complaint or to proceed with an investigation. A board can confer with a consultant member of its profession to assist the board or Department on issues of professional practice. [§38-1,138]

A board can designate one of its professional members to serve as a consultant to the Department in reviewing complaints and on issues of professional practice that arise during the course of an investigation. The consultation is not required for the Department to evaluate a complaint or to proceed with an investigation. A board can confer with a consultant member of its profession to assist the board or Department on issues of professional practice. [§38-1,138]

By Department policy, complaints are processed as follows:

1. **Complaint or Report Received:** Complaint or report concerning a Certified Person is received and logged.
2. **Copy to Attorney General's Office:** A copy of each Complaint or Report is made and sent to the Attorney General's Office.
3. **Reviewed by Department:** All complaints and reports are reviewed by Division of Investigations staff in consultation with Legal Services to determine whether the Department has jurisdiction, whether the

complaint if true would constitute a violation of credentialing laws and regulations and the complaint/report duplicates a complaint already under investigation. Based on this review the Department may: Open as a Priority Investigation, Open as a regular investigation (which can include those involving clear violations of regulations dealing with serious health or safety concerns, those dealing with complaints that involve matters of widespread public interest, those dealing with complaints that implicate controversial public policy decisions, and complaints concerning an individual already under investigation), gather more evidence and analyze, or determine no investigation is warranted.

4. **Priority Investigations: Contact Attorney General's Office:** The Department designates priority investigations in the following situations: Complaints involving imminent danger from continued practice of a licensee, so that consideration of a temporary suspension is warranted, and complaints involving imminent danger from the continued actions of a non-licensee so that an injunction, including a temporary restraining order, is being considered. Immediately upon the designation of "priority" the Department will notify the appropriate Assistant Attorney general and will provide a copy of the complaint and other pertinent information.
5. **Evidence Collection and Analysis:** In this stage the Complainant may be contacted to clarify the complaint and in most cases a letter with either a copy of the complaint or a synopsis is sent to the Credentialed Person is contacted and asked for their side of the story accompanied by a request for pertinent documents. Exceptions could include:
  - a. Management reasonably believes the investigation would be compromised
  - b. Evidence may be destroyed or records may be manipulated
  - c. A covert investigation is required
  - d. Dual investigation with other agency
6. **Reviewed by Board Consultant:** Complaints alleging scope of practice issues will be referred to the appropriate Board Consultant for determination of scope of practice and standard of care issues.
7. **Investigations Opened:** Case file is opened and an investigator assigned.
8. **Investigations Report to Board and Attorney General's Office:** Prior to the meeting of the Board, the investigation report is sent.
9. **Completed Investigation Presented to Board:** In closed session the Board meets to review the investigation report and make a recommendation concerning the complaint.
10. **Investigation and Board Recommendation to Attorney General's Office:** The Investigation Report with attachments and the Board Recommendation are provided to the Attorney General's Office. It is ultimately the Attorney General's decision whether or not a petition for disciplinary action is filed against the licensee or certificate holder. If a petition for disciplinary action is filed by the Attorney General's Office with the Department of Regulation and Licensure, the allegations may proceed to a hearing before a designated hearing officer or an agreed settlement may be negotiated with the Attorney General's Office.
11. **No Investigation:** The Department has determined that conducting an investigation is not appropriate.
12. **Attorney General and appropriate Board Informed:** When a complaint or report is not opened for investigation, the Department will identify the complaint or report on a quarterly report to the Board summarizing the nature of the complaint, the date received and closed and the reason for not investigating.

### **3. The Boards may recommend alternatives to disciplinary action.**

If the Attorney General's Office determines that a technical or insubstantial violation has occurred, it may refer the matter to the appropriate board for the opportunity to resolve the matter by issuance of a letter of concern or to recommend to the Attorney General that he or she enter into an assurance of compliance with the licensee, certificate holder, or registrant in lieu of filing a petition.

**a. The Boards advise the Attorney General on the content of assurances of compliance.**

The board may advise the Attorney General on the content of an agreement to serve as the basis of an assurance of compliance. The Attorney General may contact the licensee, certificate holder, or registrant to reach, by voluntary agreement, an assurance of compliance. The assurance shall include a statement of the statute, rule or regulation in question; a description of the conduct that would violate such statute, rule or regulation; the assurance of the licensee, certificate holder or registrant that he or she will not engage in such conduct; and acknowledgment by the licensee, certificate holder, or registrant that violation of the assurance constitutes unprofessional conduct. The assurance shall be signed by the licensee, certificate holder, or registrant and shall become a part of the public record of the licensee, certificate holder, or registrant. The individuals shall not be required to admit to any violation of law, and the assurance shall not be construed as an admission. [§38-1,127]

**4. The Boards provide input to the Attorney General concerning settlements and dismissals of petitions.**

The Attorney General may not enter into any agreed settlement or dismiss any petition for disciplinary action without first having given notice of the proposed action and an opportunity to the appropriate board to provide input into the terms of the settlement or on dismissal. The recommendation of the board, if any, is not binding on the Attorney General. Meetings of the board for such purpose must be in closed session. (§38-190)

**5. The Director of the Division of Public Health may consult with Boards concerning the appropriate sanction to be imposed after a finding of guilt.**

If a disciplinary action is filed, and the petition proceeds to hearing, the disciplinary proceeding shall be heard by the Director of Division of Public Health or by a hearing officer designated by the director. The director may:

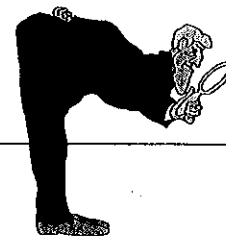
- Issue a censure or reprimand against the licensee, certificate holder, or registrant;
- Suspend judgment;
- Place the licensee, certificate holder, or registrant on probation;
- Place a limitation or limitations on the license, certificate or registration and upon the right of the licensee, certificate holder, or registrant to practice the profession to such extent, scope or type of practice, for such time, and under such conditions as are found necessary and proper;
- Impose a civil penalty not to exceed twenty thousand dollars;
- Enter an order of suspension of the license, certificate, or registration;
- Enter an order of revocation of the license, certificate, or registration; and
- Dismiss the action.

If the director determines that guilt has been established, the director may, at his or her discretion, consult with the board for the profession involved, concerning sanctions to be imposed or terms and conditions of the sanctions. When the director consults with a board, the licensee or certificate holder shall be provided with a copy of the director's request, the recommendation of the board, and an opportunity to respond in such manner as the director determines. (§38-196)

If the Director of Division of Public Health is not a licensed physician, a chief medical officer must be appointed by the Governor. (§81-3201) He or she performs the duties of the Director of the Division of Public Health for decisions in contested cases. (§38-1,101)

# Investigative Case Resolutions

## Board Recommendations



- 1 Close the Case (no action)
- 2 Request Further Investigation – need more info

### 3 IF THE SUBJECT OF THE COMPLAINT IS NOT LICENSED:

#### A. Letter of Cease and Desist (if found to be practicing without a license/certificate)

4

### IF THE SUBJECT OF THE COMPLAINT IS LICENSED:

#### A. Non-Disciplinary Actions

##### Recommended Actions:

1. Assurance of Compliance

The assurance shall include a statement of the statute, rule, or regulation in question, a description of the conduct that would violate such statute, rule, or regulation, the assurance of the credentialed person that he or she will not engage in such conduct, and acknowledgment by the credentialed person that violation of the assurance constitutes unprofessional conduct. Such assurance shall be signed by the credentialed person and shall become a part of the public record of the credentialed person. The credentialed person shall not be required to admit to any violation of the law and the assurance shall not be construed as such an admission.

#### B. Disciplinary Action – Must File a Petition

##### Recommended Actions:

- (a) Censure

Reprimand

- (b) Probation

For a specified period of time (to be recommended by the Board) the licensee will be required to meet certain terms and conditions. Failure to meet those conditions will result in a petition to revoke probation and the license. Examples of probationary conditions are: Body Fluid Screens, Assigned Supervisor, AA Attendance, Treatment, LAP Evaluation, Continuing Education, Jurisprudence Exam

- (c) Limitation

Licensee's authority to practice is limited in some fashion. Examples include – requiring the licensee to work under direct supervision, prohibit certain types of clientele, etc. (may petition reinstatement at any time)

- (d) Civil Penalty

Impose a civil penalty not to exceed twenty thousand dollars. The amount of the penalty shall be based on the severity of the violation. Money collected from a civil penalty shall be transmitted to the State Treasurer for deposit in the Permanent School Fund (the money is not deposited into the board's fund).

- (e) Suspension

Licensee loses his/her license for a specified period of time. The director may order that the credential shall be automatically reinstated upon expiration of such period, reinstated if the terms and conditions as set by the director are satisfied, or reinstated subject to probation or limitations or conditions upon the practice of the credentialed person. (may petition reinstatement at any time)

- (f) Revocation

Licensee loses license for at least 2 years (may petition reinstatement at any time after a period of 2 years has elapsed 38-148)

- (g) Voluntary Surrender

Licensee voluntarily surrenders his/her authority to practice. There is no ending date for voluntary surrender. The licensee may petition the board for reinstatement at any time.

**Director's Consultation with the Board:** If the director determines that guilt has been established, the director may, at his or her discretion, consult with the professional board for the profession involved concerning sanctions to be imposed or terms and conditions of the sanctions. When the director consults with a professional board, the credentialed person shall be provided with a copy of the director's request, the recommendation of the board, and an opportunity to respond in such manner as the director determines.

**38-1,110. Complaint alleging dependence or disability; director; investigation; report; review by board; finding; effect.** (1) When the department has received a complaint or report by any person or any report has been made to the director by the Licensee Assistance Program under section 38-175 alleging that an applicant for a credential or a person credentialed to practice any profession is suffering from abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance that impairs the ability to practice the profession or illness, deterioration, or disability that impairs the ability to practice the profession, the director shall investigate such complaint to determine if any reasonable cause exists to question the qualification of the applicant or credential holder to practice or to continue to practice such profession.

(2) If the director on the basis of such investigation or, in the absence of such complaint, upon the basis of his or her own independent knowledge finds that reasonable cause exists to question the qualification of the applicant or credential holder to practice such profession because of abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance that impairs the ability to practice the profession or illness, deterioration, or disability that impairs the ability to practice the profession, the director shall report such finding and evidence supporting it to the appropriate board.

(3) If such board agrees that reasonable cause exists to question the qualification of such applicant or credential holder, the board shall appoint a committee of three qualified physicians or other qualified professionals to examine the applicant or credential holder and to report their findings and conclusions to the board. The cost of the examination shall be treated as a base cost of credentialing under section 38-152. The board shall then consider the findings and the conclusions of the physicians or other qualified professionals and any other evidence or material which may be submitted to that board by the applicant or credential holder, by the director, or by any other person and shall then determine if the applicant or credential holder is qualified to practice or to continue to practice such profession in the State of Nebraska.

(4) If such board finds the applicant or credential holder to be not qualified to practice or to continue to practice such profession because of abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance that impairs the ability to practice the profession or illness, deterioration, or disability that impairs the ability to practice the profession, the board shall so certify that fact to the director with a recommendation for the denial, refusal of renewal, limitation, suspension, or revocation of such credential. The director shall thereupon deny, refuse renewal of, suspend, or revoke the credential or limit the ability of the credential holder to practice such profession in the state in such manner and to such extent as the director determines to be necessary for the protection of the public.

# Disciplinary Actions Taken by the Department

**(1-1-2006 to 1-1-2008) Total: 20**

#	Action Taken	License	Basis
1.	Probation	PLMHP	Dual Relationship – hired client to help decorate home
2.	Censure	LMHP, PC	Dual Relationship – husband of licensee was payee for disability checks of licensee's client
3.	Probation	LMHP, PC	Failed to report DUI / alcohol dependency
4.	Probation	PLMHP	LADC license disciplined for relationship with client
5.	Suspension, Probation	PLMHP	Failed to report several job terminations due to unprofessional Conduct & not maintaining adequate records
6.	Voluntary Surrender	LMHP, PC	Sexual relationship with client
7.	Voluntary Surrender, Probation	LMHP	Failed to report for body fluid screen/pay for screens (original probation – drug felony/dependency/fraud prescription
8.	Probation	PLMHP	Failed to report job termination due to unprofessional conduct
9.	Probation	PLMHP	Conviction history / depend & major depress diagnosis
10.	Probation	PLMHP	Conviction history / diagnosis / disc for impairment while practice in another profession / drank during probation
11.	Censure, Civil Penalty	LMHP, PC	Dual relationship – retained client's diamond ring as collateral for loan made by licensee to client
12.	Probation	LMHP, PC	Took several of clients prescribed pills- hydrocodone
13.	Probation	PLMHP	Breach confidentiality failed to comply with probationary terms
14.	Probation	LMHP	Temp moved in with client's mother (who was a friend)
15.	Voluntary Surrender	LMHP	Intimate relationship with client
16.	Probation, Civil Penalty	LMHP, CSW	Practiced in NE no license / disc in Iowa for same
17.	Probation	PLMHP	Conviction history / diagnosis
18.	Probation	PLMHP	Practice prior to Issuance of PLMHP
19.	Probation	PLMHP	Practice prior to Issuance of PLMHP
20.	Suspension, Civil Penalty	LMHP, PC	Dual relationships / unprofessional conduct / other

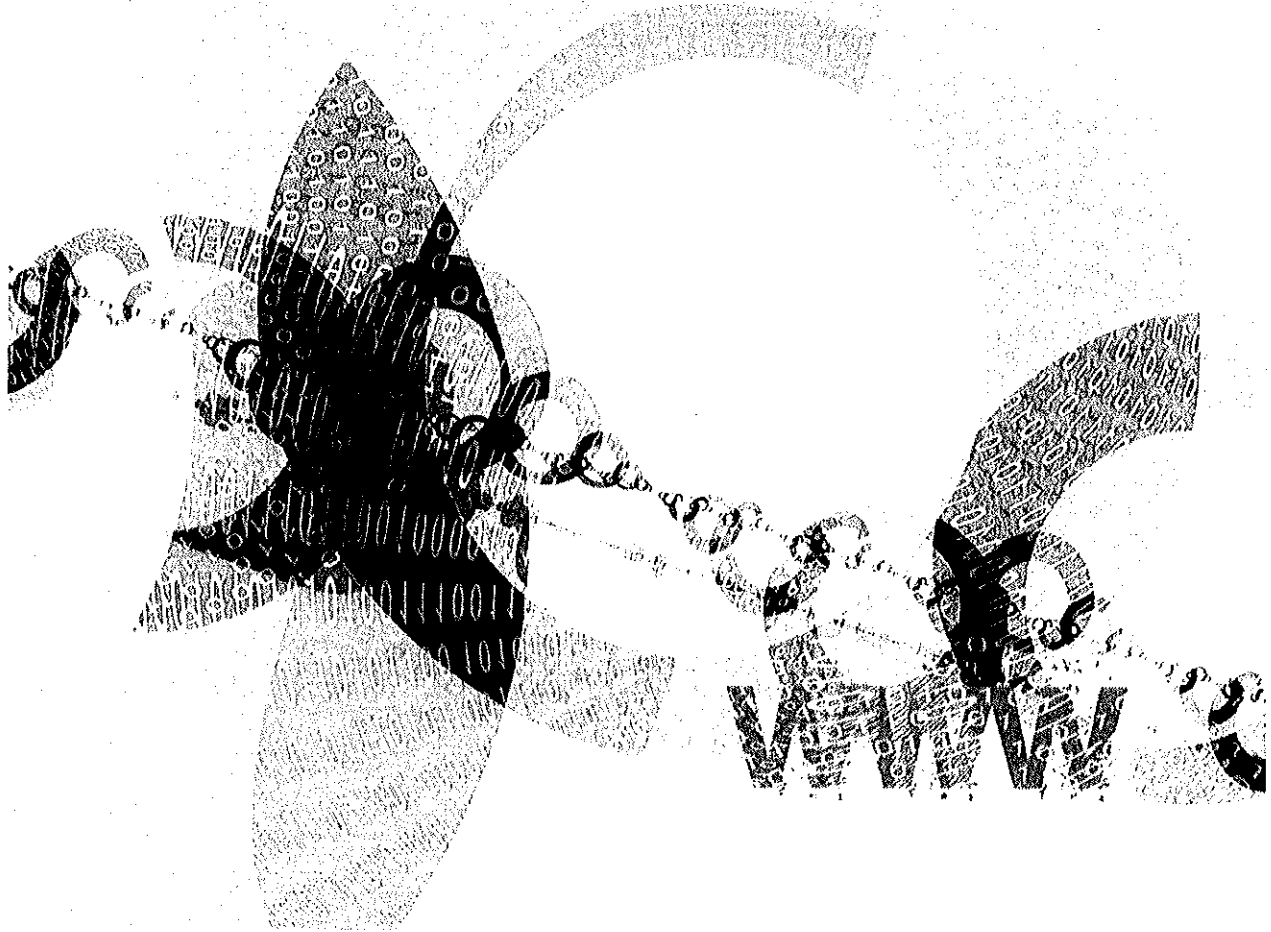
**(1-2-2008 to 1-1-2009) Total: 22**

#	Action Taken	License	Basis
1.	Probation, Censure, Civil Penalty	LMHP	Convictions, Diagnosis
2.	Probation, Censure	PLMHP	Failed to disclose conviction on app / dual relationship
3.	Civil Penalty, Censure	PLMHP	Probation violation
4.	Probation	LMHP, PC	Failed to report (to the department) employment termination
5.	Suspension, Censure	PLMHP	Probation violation – failed to report for body fluid screen, failed to submit monthly prescription report and AA meetings, failed to return calls to the department's probation monitor
6.	Probation	LMHP, PC	Failed to disclose convictions on application
7.	Probation	PLMHP, PMSW	Convictions, diagnosis (initial license)
8.	Voluntary Surrender	LMHP	Billed insurance under another licensee, dual relationship with client (traveled out-of-state)
9.	Probation	SW	Failed to report (to the department) his/her employment resignation, chemical dependency
10.	Voluntary Surrender	PLMHP	Mental incapacity
11.	Probation	PLMHP	Convictions, diagnosis (initial license)
12.	Probation	PLMHP	Convictions, diagnosis (initial license)
13.	Revocation	LMHP, MSW	Failed to report convictions, sexual relationship with client
14.	Probation	LMHP, MSW	Convictions, diagnosis (initial license)
15.	Voluntary Surrender	LMHP, PC	Failed to report (to the department) resignation, refused to cooperate with dept investigator, sexual relationship with resident
16.	Censure	LMHP	Allowed unlicensed employee to provide substance abuse evals (aided and abetted)
17.	Voluntary Surrender	LMHP, PC	Sexual intimacy with client
18.	Civil Penalty, Censure	LMHP	Downloaded pornographic materials on work computer
19.	Voluntary Surrender	LMHP, PC	Living with former client/dual relationship
20.	Probation	PLMHP	Failed to disclose Convictions on application (initial license)
21.	Revocation	LMHP	Sexual relationship with client
22.	Censure	PLMHP	Failed to comply with probation, did not complete record keeping class



## Section 4

### Web Site for General Information



**(1-2-2009 to 1-1-2010) Total: 22**

#	Action Taken	License	Basis
1.	Censure	PLMHP, PCMSW	Sexual intimacy with former client by e-mail
2.	Voluntary Surrender	MHP	Sexual touch with minor boys & diagnosis
3.	Probation	PLMHP	Initial License – convictions
4.	Censure, Civil Penalty	LMHP, PC	Probation violation – tested positive for alcohol
5.	Censure, Civil Penalty	PLMHP, PCMSW	Probation violation – admitted to consuming alcohol
6.	Probation Censure, Civil Penalty	LMHP	Sexual intimacy with client within 2 weeks of termination, Probation violation, continued to supervise Provisionals
7.	Censure, Civil Penalty	PLMHP	Probation violation – failed to report for body fluid screen
8.	Revocation	MHP, PC	Violated confidentiality, chemically dependant
9.	Probation	PLMHP	Failed to keep and maintain adequate records
10.	Probation	PLMHP	Falsified documentation
11.	Probation	PLMHP	Initial License – convictions
12.	Probation	PLMHP	Initial License – convictions/diagnosis
13.	Probation	LMHP, PC	Practice prior to issuance of 2 <sup>nd</sup> provisional
14.	Probation	LMHP, PC	Inappropriate touch of a minor client

**Non-Disciplinary Actions – Assurance of Compliance**


**Mental Health Practice Total:**            14 (2007-2008)  
   6 (2008-2009)  
   6 (2009-2010)

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## Welcome to Licensure Unit

Helen Meeks, Administrator

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This area licenses health related professions and occupations as well as health care facilities and services and child care programs.

[New Professional Licensure Fees Effective August 30, 2008](#)

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 [Licensure Unit Annual Report 2009](#)  
December 10, 2009

 [Uniform Credentialing Act](#)

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Nebraska State Office Building DHHS, Public Health Licensure Unit 301 Centennial Mall South 3rd floor P.O. Box 94986 Lincoln, NE 68509-4986	Office Hours: Monday - Friday 8:00-5:00 Central Time Phone: (402) 471-2115 Professions/Occupations fax: (402) 471-3577 Facility/Services fax: (402) 471-0555 E-Mail: <a href="mailto:lannelle.eastburn@nebraska.gov">lannelle.eastburn@nebraska.gov</a>
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Licensure Unit is responsible for assuring the public that health-related practices provided by individuals, facilities and programs are safe, of acceptable quality, and that the cost of expanded services is justified by the need. This assurance is accomplished through the following activities:

- Licensing, certifying or registering individuals to provide health care services or services that may relate to or affect health;
- Inspecting or surveying health care facilities and child care

[Skip Navigation](#)

## Mental Health

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### Independent Mental Health Practitioner Application Application Memo

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#### **Mental Health Practice**

A Mental Health Practice license is required if a person provides treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations; and includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

#### **Certified Marriage and Family Therapist (CMFT)**

If you use the title 'certified marriage and family therapist' or represent yourself as 'certified marriage and family therapist', you must apply for certification.

#### **Certified Master Social Worker (CMSW)**

Social work practice or the practice of social work is the professional activity of helping individuals, groups, and families or larger systems such as organizations and communities to improve, restore, or enhance their capacities for personal and social functioning and the professional application of social work values, knowledge, principles, and methods.

#### **Certified Professional Counselor (CPC)**

A person who is certified as a mental health practitioner (LMHP) and certified as a professional counselor (CPC) may use the title Licensed Professional Counselor (LPC).

#### **Certified Social Worker (CSW)**

Certified social workers provide the professional application of social work values, knowledge, principles, and methods in all areas of social work practice.

#### **Independent Mental Health Practitioner (IMHP)-Application Application Memo**

An Independent Mental Health Practitioner license is required if a person provides treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations and diagnoses major mental illness or disorder, using psychotherapy with individuals suspected of having major mental or emotional disorders, or

## Section 5 - Contact Information

### Office Address:

#### *Mailing Address:*

Nebraska Department of Health and Human Services, Division of Public Health  
Licensure Unit  
PO Box 94986  
Lincoln, NE 68509-4986

#### *Physical Address:*

Nebraska State Office Building  
301 Centennial Mall South  
14th and M Streets  
3rd Floor  
Lincoln, Nebraska

#### *Office Hours:*

8:00 a.m. to 5:00 p.m. (central time)  
Monday through Friday

### Nebraska Licensure Information

#### **Mental Health Practice:**

For Provisional Licensure Questions/Info:

Debi Lamprecht  
Phone: (402) 471-4970  
Fax: (402) 471-3577  
e-mail: [debra.lamprecht@nebraska.gov](mailto:debra.lamprecht@nebraska.gov)

For LIMHP, LMHP, CMFT, MPC, or SW Questions/Info, Examination and Renewal

Cindy Kelley  
Phone: (402) 471-4905  
Fax: (402) 471-3577  
e-mail: [cindy.l.kelley@nebraska.gov](mailto:cindy.l.kelley@nebraska.gov)

#### **Psychology:**

Cindy Kelley  
Phone: (402) 471-4905  
Fax: (402) 471-3577  
e-mail: [cindy.l.kelley@nebraska.gov](mailto:cindy.l.kelley@nebraska.gov)

#### **Alcohol and Drug Counseling:**

Debi Lamprecht  
Phone: (402) 471-4970  
Fax: (402) 471-3577  
e-mail: [debra.lamprecht@nebraska.gov](mailto:debra.lamprecht@nebraska.gov)

For specialized information relating to mental health practice, psychology and/or alcohol and drug counseling, contact:

#### **Program Specialist**

Nancy Herdman, Program Specialist  
Phone: (402) 471-2117  
Fax: (402) 471-3577  
e-mail: [nancy.herdman@nebraska.gov](mailto:nancy.herdman@nebraska.gov)

#### **Office Administrator**

Kris Chiles, Section Administrator  
Phone: (402) 471-2117  
Fax: (402) 471-3577  
e-mail: [kris.chiles@nebraska.gov](mailto:kris.chiles@nebraska.gov)