

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 96 MEDICATION AIDE REGISTRY

96-001 SCOPE AND AUTHORITY: These regulations apply to the establishment and maintenance of the Medication Aide Registry pursuant to the Medication Aide Act. Child care providers, staff members of schools, licensed health care professionals, and persons providing medications in a recipient's home unless provided through a licensed home health agency or a licensed or certified home and community-based provider are not required to be on the Registry.

96-002 DEFINITIONS

Act means Neb. Rev. Stat. §§ 71-6718 through 71-6742, known as the Medication Aide Act.

Active status means the individual has met all requirements for registration, reapplication or renewal and is eligible to administer medications in accordance with the Act.

Administration of medication includes, but is not limited to:

1. Providing medications for another person according to the five rights,
2. Recording medication provision, and
3. Observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication.

Complete application means an application that includes all of the information requested, the signature of the applicant, the required fee, and all required documentation.

Department means the Department of Health and Human Services.

Entity means a facility, school, licensed child care facility, or any other business or individual utilizing medication aides or medication staff.

Facility means a health care facility or health care service as defined in Neb. Rev. Stat. § 71-413 or 71-415, or an entity or person certified by the Department to provide home and community- based services.

ICF/MR means an intermediate care facility for persons with mental retardation as defined in Neb. Rev. Stat. § 71-421.

Incompetence means the failure by a medication aide to provide medications according to the competency standards in 172 NAC 96-005.01A.

Licensed health care professional means a licensed individual for whom administration of medication is included in his/her scope of practice.

Medication aide means an individual who has met all requirements for registration and is listed on the Medication Aide Registry operated by the Department.

Medication Aide-40 hour means a medication aide who has completed a 40-hour course and passed an examination identified in 172 NAC 96-004.02.

Medication Aide-20 hour means a medication aide who has, prior to January 1, 2003, completed a 20-hour course and passed an examination identified in 172 NAC 96-004.02. Individuals who, on July 1, 1999, were registered as medication aides as provided by Neb. Rev. Stat. § 71-6742, were not required to take the examination.

Medication staff means an individual who is licensed to operate a child care facility, or a staff member of a child care facility, or a staff member of a school; and, who has been determined to be competent to assist with the administration of medication.

Recipient means any person who is receiving medication.

96-003 REQUIREMENTS FOR PLACEMENT ON THE MEDICATION AIDE REGISTRY

96-003.01 To qualify for placement on the Registry, the applicant must:

1. Meet the requirements for competency in accordance with 172 NAC 96-004 during the six months preceding the period for which the requested registration will be effective;
2. Be at least 18 years of age;
3. Be of good moral character; and
4. Submit to the Department:
 - a. A completed application including applicant name, address, birth date, Social Security Number and identification of any felony or misdemeanor conviction along with date of occurrence and county in which the conviction occurred;
 - b. Certified copies of all charges, amended charges, pleas, sentencing and probation orders for convictions related to:
 - (1) Lewd behavior;
 - (2) Behavior involving minors, except minor in possession (MIP);
 - (3) Taking something belonging to someone else;
 - (4) Physically, verbally, or emotionally threatening, abusing, or

- neglecting another individual;
 - (5) Obstruction of justice/resisting arrest;
 - (6) Failure to appear or comply with citation;
 - (7) Destruction of property;
 - (8) Trespassing; and
 - (9) Manufacture and/or delivery of controlled substances;
- c. All records, documents or information requested by the Department;
 - d. An official record documenting demonstration of competency as specified in 172 NAC 96-004; and
 - e. The required non-refundable fee as specified in 172 NAC 96-011.

96-003.02 Department Responsibilities

96-003.02A The Department will maintain a registry record that contains all of the information requested in the application.

96-003.02B All registrants will be issued a document identifying them as a Medication Aide, Medication Aide-20 hour, or Medication Aide-40 hour. The document will specify the expiration date of the registration.

96-003.02C The Department will act within 30 days upon all completed applications for registration.

96-003.02C1 An individual who has met all of the criteria for registration as identified in 172 NAC 96-003.01 and has taken the exam, if required, may provide medications in accordance with the Act and 172 NAC 96 for a period not to exceed 30 days pending the results of the examination and/or placement on the Registry.

96-003.02D If the Department denies registration, the applicant must be notified and given an opportunity for an informal conference in accordance with Neb. Rev. Stat. § 71-6731 and/or a formal hearing in accordance with the Department's Rules of Practice and Procedure.

96-004 COMPETENCY ASSESSMENT FOR PLACEMENT ON THE REGISTRY: The requirements for demonstration of competence and the required documentation are set forth below:

96-004.01 Medication aides providing services in all settings except an assisted-living facility, ICF/MR, or nursing home must successfully pass a competency assessment as identified in 172 NAC 96-005.

96-004.02 Medication aides providing services in an assisted-living facility, ICF/MR, or nursing home must:

1. Successfully complete a competency assessment as identified in 172 NAC 96-

005.

2. Successfully complete a 40-hour course. The course must be on the competency standards identified in 172 NAC 96-005.01A. The 40-hour course may include the competency assessment identified in 172 NAC 96-005.
 - a. A medication aide who has, prior to January 1, 2003, taken a 20-hour course and passed an examination administered by the Department, may complete an additional 20-hour course to meet the required 40-hour course.
 - b. These course requirements may be met by a person enrolled in an approved program of nursing or other allied health program after the content required for the competencies identified in 172 NAC 96-005.01A have successfully been completed.
 - c. These course requirements may be met by a person who has taken a medication course in another state if the course consisted of the required 40 clock hours.
3. Pass an examination administered by the Department.
 - a. The examination passing standard will be criterion referenced using the Anghoff Method or equivalent method.

96-004.03 Documentation of Competency Assessment or Course Completion

96-004.03A Documentation of successful completion of competency assessment must be by copy of letter, certificate, or other official record from the professional who provided or directed the competency assessment.

96-004.03B Documentation of successful course completion must be by copy of letter, certificate, or other official record from the professional or entity offering the 40-hour course, or the additional 20-hour course for those individuals who, prior to January 1, 2003, had completed a 20-hour course and the state written exam.

96-004.03C Documentation of successful course completion by a student enrolled in an approved program of nursing may be met by a signed statement from a faculty member of the program who is also a licensed health care professional. The written statement must identify the name and Social Security Number of the student and a statement that the student has completed the course work covering the competencies identified in 172 NAC 96-005.01A. For the purposes of the Act and 172 NAC 96, this will meet the requirement of the 40-hour course.

96-004.03D Documentation of successful course completion by a person in another state who has completed a medication course may be met by submitting a copy of the certificate of completion or other official documentation from the course. The documentation must include the name of the individual who has completed the course, the date of course completion, and the number of hours contained in the course.

96-005 REQUIREMENTS FOR INDIVIDUALS AND/OR ENTITIES OFFERING COMPETENCY ASSESSMENTS AND/OR COURSES

96-005.01 Competency Assessment

96-005.01A Competency assessments must include a demonstration of each of the following competency areas and standards:

1. Maintaining confidentiality; Standard: Does not share confidential information except when it affects the recipient's care and is to the appropriate person(s);
2. Complying with a recipient's right to refuse to take medication; Standard: Does not force recipients to take medication. Uses appropriate measures to encourage taking of medications when directed for recipients who are not competent;
3. Maintaining hygiene and current accepted standards for infection control; Standard: Utilizes appropriate infection control principles when providing medications;
4. Documenting accurately and completely; Standard: Accurately documents all medication provided including the name of the medication, dose, route, and time administered and any refusal of medication, and spoilage;
5. Providing medications according to the five rights; Standard: Provides the right medication, to the right person, at the right time, in the right dose, and by the right route;
6. Having the ability to understand and follow instructions; Standard: Comprehends written or oral directions;
7. Practicing safety in application of medication procedures; Standard: Properly:
 - a. Stores and handles all medication in accordance with entity policy;
 - b. Intervenes when unsafe conditions of the medication indicate a medication should not be provided; and
 - c. Provides medication to recipients in accordance with their age and condition;
8. Complying with limitations and conditions under which a medication aide or medication staff may provide medications; Standard: Knows that they must:
 - a. Be competent, have been assessed, and if applicable, be listed on the Medication Aide Registry with an active status;
 - b. Always comply with the five rights of provision of medications;
 - c. Record all medication provided or refused; and

- d. Have additional competencies to provide additional activities;
- 9. Having knowledge of abuse and neglect reporting requirements;
Standard: Identifies:
 - a. Occurrences of possible abuse of a vulnerable adult and reports this information to the appropriate person/agency as required by the Adult Protective Services Act; and
 - b. Occurrences of possible abuse or neglect of a child and reports this information to the appropriate person/agency as required by Neb. Rev. Stat. §§ 28-710 to 28-727; and
- 10. Complying with every recipient's right to be free from physical and verbal abuse, neglect, and misappropriation or misuse of property;
Standard: Does not misuse recipient property or cause physical harm, pain, or mental anguish to recipients.

96-005.01B Competency assessments must be conducted by a licensed health care professional or a registered medication aide. If the competency assessment is conducted by a medication aide, the competency assessment must be designed, directed, and reviewed by a licensed health care professional.

96-005.01B1 A licensed health care professional who has designed and is directing the competency assessment must review the competency assessment process no less than one time per year. The review must include, but is not limited to, a measurement of the desired outcomes of the competency assessment. The licensed health care professional must maintain a record of the review for no less than three years from the date the review was conducted.

96-005.02 Documentation of Competency Assessment: Persons offering competency assessments must provide the medication aide with documentation of successful completion of competency assessment.

96-005.02A Documentation may be by letter, certificate, or other official record and must include:

- 1. The name and Social Security Number of the medication aide who successfully completed the competency assessment;
- 2. The date the competency assessment was conducted; and
- 3. The name, profession, and license number of the licensed health care professional who conducted or designed and directed the competency assessment.

96-005.03 Forty-Hour Course Requirements

96-005.03A The 40-hour course for assisted living, ICF/MR, and nursing home must be on the competencies identified in 172 NAC 96-005.01A.

96-005.03B The assessment must meet the requirements of 172 NAC 96-005.01.

96-005.04 Documentation of Course Completion: Individuals or entities offering a 40-hour course or the additional 20-hour course for those individuals who, prior to January 1, 2003, had completed a 20-hour course and passed an examination administered by the Department, must provide the medication aide with documentation of successful course completion.

96-005.04A Documentation must include:

1. The name and Social Security Number of the individual who successfully completed the course;
2. The number of hours in the course and whether the course was the 40-hour assisted-living, ICF/MR, or nursing home course, or the additional 20-hour course;
3. The date the course was successfully completed;
4. The name of the person or entity responsible for providing the course and determining successful completion; and
5. The criteria set forth in 172 NAC 96-005.02.

96-006 REVIEW OF ENTITIES CONDUCTING COMPETENCY ASSESSMENTS AND/OR COURSES AND REVIEW OF MEDICATION AIDE ACTIVITIES

96-006.01 In order to ensure compliance with the Act and 172 NAC 96, the Department may:

1. Conduct a review of any entity or person conducting competency assessments and/or a course; and
2. Review the activities of any applicant or medication aide.

96-006.02 Conditions or environmental situations which may trigger a review include, but are not limited to:

1. Receipt of a complaint against a facility or a medication aide;
2. High failure rate on the Department-administered examination for medication aides in an assisted-living facility, ICF/MR, or nursing home;
3. A negative medication outcome by a recipient receiving medication from a medication aide;
4. When there is cause for concern that a facility is not complying with the Act and 172 NAC 96;
5. High rate of medication errors reported or found in a facility; or
6. Information obtained through the facility survey process.

96-006.03 Periodic and random reviews by the Department may be conducted without prior notification.

96-007 REGISTRATION RENEWAL OR REAPPLICATION

96-007.01 Expiration: All medication aide registrations expire two years after the date of

registration. If an individual meets the renewal requirements before the expiration date, his/her registration will be renewed. If an individual fails to renew his/her registration by the expiration date, his/her registration will expire. An individual whose registration has expired may reapply for registration.

96-007.02 Requirements for Registration Renewal or Reapplication: Before his/her registration will be renewed or in order to reapply for registration, an applicant must meet the following requirements:

1. Meet the renewal/reapplication requirements:
 - a. Have completed a competency assessment in accordance with 172 NAC 96-005 during the six months preceding the period for which the requested registration renewal or reapplication will be effective; and
 - b. Pay the non-refundable renewal or reapplication fee.
2. For reapplication:
 - a. Attest:
 - (1) That s/he has not provided services in Nebraska since s/he last held an active registration; or
 - (2) To the actual number of days s/he provided services if the applicant has provided services in Nebraska since s/he last held an active registration.

96-007.03 Procedures

96-007.03A Notice: On or before 90 days prior to expiration of the registration, the Department will send a renewal notice by means of regular mail to each registrant at the registrant's last place of residence as noted in the records of the Department. It is the responsibility of the registrant prior to the renewal period to notify the Department of any name and/or address changes. The renewal notice will specify:

1. The name of the registrant;
2. The registrant's last known address of record;
3. The registration number;
4. The expiration date of the registration; and
5. The renewal or reapplication fee as prescribed in 172 NAC 96-011.

96-007.03B Any registrant who wishes to renew his or her registration or to reapply for registration must submit to the Department:

1. The renewal notice or written application which:
 - a. Is verified by the registrant's/applicant's oath; and
 - b. Contains the following about the applicant:
 - (1) Name;
 - (2) Address;
 - (3) Social Security Number; and
 - (4) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the registration was active;
 - (b) Revocations, suspensions, or other disciplinary actions

- against any health care professional credential held by the applicant during the time period since the credential was active;
- (c) Disciplinary charges pending against any health care professional credential held by the applicant;
- (5) Certified copies of all charges, amended charges, pleas, sentencing and probation orders for convictions related to:
- (a) Lewd behavior;
 - (b) Behavior involving minors, except minor in possession (MIP);
 - (c) Taking something belonging to someone else;
 - (d) Physically, verbally, or emotionally threatening, abusing, or neglecting another individual;
 - (e) Obstruction of justice/resisting arrest;
 - (f) Failure to appear or comply with citation;
 - (g) Destruction of property;
 - (h) Trespassing; and
 - (i) Manufacture and/or delivery of controlled substances
- (6) All records, documents or information requested by the Department.
- (7) Documentation of competency in accordance with 172 NAC 96-004.
2. The non-refundable renewal or reapplication fee and any other applicable fees.
3. For reapplication:
- a. A written attestation which states:
 - (1) That s/he has not provided services in Nebraska since s/he last held an active registration; or
 - (2) To the actual number of days s/he provided services if the applicant has provided services in Nebraska since s/he last held an active registration.

96-007.04 The Department may refuse to renew a registration or deny reapplication for a registration for failure to meet the requirements specified in 172 NAC 96-007 or for falsification of any information submitted for renewal or reapplication of registration. Such refusal will be made pursuant to an informal conference as set forth in Neb. Rev. Stat. § 71-6731 and/or hearing in accordance with the Department's Rules of Practice and Procedure.

96-008 GROUND AND PROCEDURES FOR DENIAL, REFUSAL OF RENEWAL OR REAPPLICATION, OR REMOVAL FROM THE REGISTRY

96-008.01 The Department will deny an application for placement on the Registry as a medication aide when the applicant fails to meet the requirements specified in 172 NAC

96-003.

96-008.02 The Department will refuse renewal or reapplication for registration or remove registration if the medication aide fails to meet the requirements specified in 172 NAC 96-003.

96-008.03 The Department may deny, refuse renewal or reapplication for, or remove registration for:

1. Failure to demonstrate competency as identified in 172 NAC 96-005;
2. Failure to produce evidence of competency assessment performed or directed by a licensed health care provider;
3. Conviction of a felony or misdemeanor if it relates to the competency standards in 172 NAC 96-005.01A;
4. Failure to comply with appropriate verbal and written direction given by a recipient with capability and capacity to make informed decision about medications, caretaker or licensed health care professional in the provision of medication;
5. Falsification or failure to report any information on application for registration or renewal; and/or
6. Providing medication aide services without an active medication aide registration.

96-008.04 If the Department denies, refuses renewal or reapplication of, or removes registration other than for non-payment of the renewal or reapplication fee, the applicant or registrant will be notified and given an opportunity for an informal conference as set forth in Neb. Rev. Stat. § 71-6731 and/or hearing in accordance with the Department's Rules of Practice and Procedure.

96-008.05 When a registration as a medication aide has been denied, refused renewal or reapplication, or removed from the Registry, an applicant requesting registration must reapply for such registration as identified in 172 NAC 96-003, but may not reapply until one year has elapsed since the denial/refusal was effective.

96-009 MEDICATION AIDE REGISTRY REQUIREMENTS RELATING TO NURSE LICENSURE

96-009.01 When an individual whose name is on the Medication Aide Registry becomes licensed as a registered nurse or licensed practical nurse, the individual's status on the Medication Aide Registry will become null and void effective the date the professional license is issued.

96-009.02 A medication aide application or renewal will be denied if the individual has had a registered nurse or licensed practical nurse license revoked, suspended, or voluntarily surrendered in lieu of discipline.

96-010 FACILITY OR INDIVIDUAL REQUIREMENT TO REPORT: Any time a facility or individual using the services of a medication aide takes action adversely affecting the medication aide due to alleged incompetence, the facility or individual must make a report to the

Department. The report must be made within 30 days after the action.

96-010.01 Adverse action includes termination of employment, suspension, demotion, or any other type of restriction or action adversely affecting a medication aide.

96-010.02 The report must include:

1. The name, address, and Social Security Number of the medication aide;
2. The date of the alleged incident(s) and date of adverse action;
3. The name of the individual, if applicable, who was the recipient/intended recipient of the medication(s) during the act(s) of the alleged incompetence;
4. A description of the alleged act(s) of incompetence and any supporting documents or records; and
5. Any other related facts known to the facility or person making the report.

96-011 SCHEDULE OF FEES: The following fees have been set by the Department:

96-011.01 Initial Registration, Renewal or Reapplication Fee: An applicant for initial registration, renewal, or reapplication to provide services as a medication aide must pay a fee of \$18. This fee is non-refundable.

96-011.02 Testing Fee: An applicant to test as a medication aide in an assisted living facility, ICF/MR, or nursing home must pay a fee of \$18. This fee is non-refundable.

96-011.03 Certification of Registration Fee: A fee of \$25 must be paid to the Department for issuance of a written certification of a registration. The certification includes information regarding:

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

96-011.04 Verification of Registration Fee: A fee of \$5 must be paid to the Department for issuance of a written verification of a registration. The verification includes written confirmation as to whether a registration was valid at the time the request was made.

96-011.05 Duplicate Registration Fee: A fee of \$10 must be paid to the Department for a duplicate of an original medication aide registration card.