

# HEALTH AND HUMAN SERVICES COMMITTEE OF THE NEBRASKA LEGISLATURE

Report as required by Neb. Rev. Stat. 84-948

## Committee Members

Senator Ben Hansen, Chairperson, District 16

Senator Brain Hardin, Vice-Chairperson, District 48

Senator Lynne Walz, District 16

Senator Machaela Cavanaugh, District 6

Senator Merv Riepe, District 12

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Senator Beau Ballard, District 21

## Committee Staff

Benson Wallace, Legal Counsel

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## **Occupational Board Reform Act**

The Legislature passed the Occupational Board Reform Act in 2018 (Neb. Rev. Stat. §§ 84-901 to 84-920) with an operative date of July 1, 2019. The act requires that:

“Beginning in 2019, each standing committee of the Legislature shall annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee and prepare and submit an annual report electronically to the Clerk of the Legislature by December 15 of each year as provided in this section. Each committee shall complete this process for all occupational regulations within its jurisdiction within five years and every five years thereafter. Each report shall include the committee's recommendations regarding whether the occupational regulations should be terminated, continued, or modified.” (Neb. Rev. Stat. § 84-948)

## **Committee Findings**

Neb. Rev. Stat. 84-948 requires the report to include the following with answers in bold:

(3) A committee's report shall include, but not be limited to, the following:

(a) The title of the regulated occupation and the name of the occupational board responsible for enforcement of the occupational regulations.

**The Asbestos Control Act, administered by DHHS regulates the following occupations:**

**Project Manager, Asbestos Limited Management Planner, Limited Project Designer, Asbestos Worker, Asbestos Supervisor, Asbestos Project Designer, Asbestos Management Planner, and Asbestos Inspector**

**There is no occupational board that regulates these occupations.**

(b) The statutory citation or other authorization for the creation of the occupational regulations and occupational board;

**Neb. Rev. Stat. 71-6303 and 71-6310**

(c) The number of members of the occupational board and how the members are appointed;

**N/A**

(d) The qualifications for membership on the occupational board;

**N/A**

(e) The number of times the occupational board is required to meet during the year and the number of times it actually met;

**N/A**

(f) Annual budget information for the occupational board for the five most recently completed fiscal years;

**Cash licensure fees are deposited in the Professional and Occupational Credentialing Cash Fund. There is not Department specific budget relating to licensing this occupation; however, the Cash Fund allows for payment of the DHHS Licensure Unit's related expenses to be paid out of the Fund. Spending authority for the Fund is established each biennium in the budget bill.**

(g) For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certifications, occupational licenses, and registrations the occupational board has issued, revoke, denied, or assessed penalties against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, other penalties.

**Government Certificates Issued:**

**Asbestos Limited Management Planner: 11**

**Project Monitor: 6**

**Limited Project Designer: 2**

**Asbestos Worker: 8511**

**Asbestos Supervisor: 7545**

**Asbestos Project Designer: 717**

**Asbestos Management Planner: 951**

**Asbestos Inspector: 1483**

**Revocations:**

**Asbestos Inspector: 1**

**Asbestos Management Planner: 1**

**Asbestos Project Designer: 1**

**Asbestos Supervisor: 2**

**Asbestos Worker: 3**

**Reasons: Poor work practices, not wearing respirator, unprofessional conduct, violating regulations and putting crew in danger of asbestos exposure, and committed fraud**

**Denials:**

**Asbestos Limited Management Planner: 1**

**Asbestos Inspector: 1**

**Asbestos Management Planner: 2**

**Asbestos Project Designer: 1**

**Asbestos Supervisor: 17**

**Asbestos Worker: 29**

**Reasons: Not meeting licensing requirements, disciplinary action in other states, and failure to meet continuing education requirements**

**Penalties Against:**

**Asbestos Inspector: 16**

**Asbestos Management Planner: 15**

**Asbestos Project Designer: 18**

**Asbestos Supervisor: 57**

**Asbestos Worker: 58**

**Descriptions include civil penalties, and notices of violations**

(h) A review of the basic assumptions underlying the creation of the occupational regulations;

**Please see Neb. Rev. Stat. 71-6303 and 71-6310:**

<https://nebraskalegislature.gov/laws/statutes.php?statute=71-6303>

<https://nebraskalegislature.gov/laws/statutes.php?statute=71-6310>

(i) A statement from the occupational board on the effectiveness of the occupational regulations

**The Department of Health and Human Services stated “the regulations have been approved by the [Federal] Environmental Protection Agency. Training providers approve to present these Nebraska disciplines follow a model accreditation program and issue a certificate that is accepted nationwide.”**

(j) A comparison of whether and how other states regulate the occupation;

**The majority of states have similar regulations that have been approved by the Environmental Protection Agency.**

(4) Subject to subsection )5) of this section, each committee shall also analyze, and include in its report, whether the occupational regulations meet the policies stated in section 84-946 considering the following recommended courses of action for meeting such policies:

**The regulations (Title 178, Chapter 22) appear to be consistent with statutes.**

- (a) If the need is to protect consumers against fraud, the likely recommendation will be to strengthen powers under the Uniform Deceptive Trade Practices Act or require disclosures that will reduce misleading attributes of the specific goods or services:

N/A

- (b) If the need is to protect consumers unclean facilities or to promote general health and safety, the likely recommendation will be to require periodic inspections of such facilities;

N/A

- (c) If the need is protect consumers against potential damages from failure by providers to complete a contract fully or up to standards, the likely recommendation will be to require that providers be bonded:

N/A

- (d) If the need is to protect a person who is not party to a contract between the provider and consumer, the likely recommendation will be to require that the provider have insurance;

N/A

- (e) If the need is to protect consumers against potential damages by transient providers, the likely recommendation will be to require that providers register their businesses with the Secretary of State;

N/A

- (f) If the need is to protect consumers against a shortfall or imbalance of knowledge about the goods or services relative to the providers' knowledge, the likely recommendation will be to enact government certification; and

N/A

- (g) If the need is to address a systematic information shortfall such that a reasonable consumer is unable to distinguish between the quality of providers, there is an absence of institutions that provide adequate guidance to the consumer, and the consumer's inability to distinguish between providers and the lack of adequate guidance allows for undue risk of present, significant, and substantiated harms, the likely recommendation will be to enact an occupational license.

N/A

(5) If a lawful occupation is subject to the Nebraska Regulation of Health Professions Act, the analysis under subsection (4) of this section shall be made using the least restrictive method of regulation as set out in section 71-6222.

N/A



(6) In developing recommendations under this section, the committee shall review any report issued to the Legislature pursuant to the Nebraska Regulation of Health Professions Act, if applicable, and consider any findings or recommendations of such report related to the occupational regulations under review.

**N/A**

(7) If the committee finds that it is necessary to change occupational regulations, the committee shall recommend the least restrictive regulation consistent with the public interest and the policies in this section and section 84-946.

**NA**

### **Conclusion**

The licenses, certifications, and registrations overseen by DHHS are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the asbestos related occupations by licensure is appropriate and balanced and does not need modification at this time.