

AMENDMENTS TO LB78

Introduced by Cavanaugh, M., 6.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 38-101, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 38-101 Sections 38-101 to 38-1,147 and section 3 of this act and the
6 following practice acts shall be known and may be cited as the Uniform
7 Credentialing Act:

- 8 (1) The Advanced Practice Registered Nurse Practice Act;
- 9 (2) The Alcohol and Drug Counseling Practice Act;
- 10 (3) The Athletic Training Practice Act;
- 11 (4) The Audiology and Speech-Language Pathology Practice Act;
- 12 (5) The Certified Nurse Midwifery Practice Act;
- 13 (6) The Certified Registered Nurse Anesthetist Practice Act;
- 14 (7) The Chiropractic Practice Act;
- 15 (8) The Clinical Nurse Specialist Practice Act;
- 16 (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and
17 Body Art Practice Act;
- 18 (10) The Dentistry Practice Act;
- 19 (11) The Dialysis Patient Care Technician Registration Act;
- 20 (12) The Emergency Medical Services Practice Act;
- 21 (13) The Environmental Health Specialists Practice Act;
- 22 (14) The Funeral Directing and Embalming Practice Act;
- 23 (15) The Genetic Counseling Practice Act;
- 24 (16) The Hearing Instrument Specialists Practice Act;
- 25 (17) The Licensed Practical Nurse-Certified Practice Act until
26 November 1, 2017;
- 27 (18) The Massage Therapy Practice Act;

- 1 (19) The Medical Nutrition Therapy Practice Act;
- 2 (20) The Medical Radiography Practice Act;
- 3 (21) The Medicine and Surgery Practice Act;
- 4 (22) The Mental Health Practice Act;
- 5 (23) The Nurse Practice Act;
- 6 (24) The Nurse Practitioner Practice Act;
- 7 (25) The Nursing Home Administrator Practice Act;
- 8 (26) The Occupational Therapy Practice Act;
- 9 (27) The Optometry Practice Act;
- 10 (28) The Perfusion Practice Act;
- 11 (29) The Pharmacy Practice Act;
- 12 (30) The Physical Therapy Practice Act;
- 13 (31) The Podiatry Practice Act;
- 14 (32) The Psychology Practice Act;
- 15 (33) The Respiratory Care Practice Act;
- 16 (34) The Surgical First Assistant Practice Act; and
- 17 (35) The Veterinary Medicine and Surgery Practice Act.

18 If there is any conflict between any provision of sections 38-101 to
19 38-1,147 and section 3 of this act and any provision of a practice act,
20 the provision of the practice act shall prevail except as otherwise
21 specifically provided in section 38-129.02.

22 Sec. 2. Section 38-178, Revised Statutes Cumulative Supplement,
23 2022, is amended to read:

24 38-178 Except as otherwise provided in sections 38-1,119 to
25 38-1,123, a credential to practice a profession may be denied, refused
26 renewal, or have other disciplinary measures taken against it in
27 accordance with section 38-185 or 38-186 on any of the following grounds:

- 28 (1) Misrepresentation of material facts in procuring or attempting
29 to procure a credential;
- 30 (2) Immoral or dishonorable conduct evidencing unfitness to practice
31 the profession in this state;

1 (3) Abuse of, dependence on, or active addiction to alcohol, any
2 controlled substance, or any mind-altering substance;

3 (4) Failure to comply with a treatment program or an aftercare
4 program, including, but not limited to, a program entered into under the
5 Licensee Assistance Program established pursuant to section 38-175;

6 (5) Conviction of (a) a misdemeanor or felony under Nebraska law or
7 federal law, or (b) a crime in any jurisdiction which, if committed
8 within this state, would have constituted a misdemeanor or felony under
9 Nebraska law and which has a rational connection with the fitness or
10 capacity of the applicant or credential holder to practice the
11 profession;

12 (6) Practice of the profession (a) fraudulently, (b) beyond its
13 authorized scope, (c) with gross incompetence or gross negligence, or (d)
14 in a pattern of incompetent or negligent conduct;

15 (7) Practice of the profession while the ability to practice is
16 impaired by alcohol, controlled substances, drugs, mind-altering
17 substances, physical disability, mental disability, or emotional
18 disability;

19 (8) Physical or mental incapacity to practice the profession as
20 evidenced by a legal judgment or a determination by other lawful means;

21 (9) Illness, deterioration, or disability that impairs the ability
22 to practice the profession;

23 (10) Permitting, aiding, or abetting the practice of a profession or
24 the performance of activities requiring a credential by a person not
25 credentialed to do so;

26 (11) Performing or offering to perform scleral tattooing as defined
27 in section 38-10,172 by a person not credentialed to do so;

28 (12) Having had his or her credential denied, refused renewal,
29 limited, suspended, revoked, or disciplined in any manner similar to
30 section 38-196 by another state or jurisdiction based upon acts by the
31 applicant or credential holder similar to acts described in this section;

1 (13) Use of untruthful, deceptive, or misleading statements in
2 advertisements, including failure to comply with section 38-124;

3 (14) Conviction of fraudulent or misleading advertising or
4 conviction of a violation of the Uniform Deceptive Trade Practices Act;

5 (15) Distribution of intoxicating liquors, controlled substances, or
6 drugs for any other than lawful purposes;

7 (16) Violations of the Uniform Credentialing Act or the rules and
8 regulations relating to the particular profession;

9 (17) Unlawful invasion of the field of practice of any profession
10 regulated by the Uniform Credentialing Act which the credential holder is
11 not credentialed to practice;

12 (18) Violation of the Uniform Controlled Substances Act or any rules
13 and regulations adopted pursuant to the act;

14 (19) Failure to file a report required by section 38-1,124,
15 38-1,125, or 71-552;

16 (20) Failure to maintain the requirements necessary to obtain a
17 credential;

18 (21) Violation of an order issued by the department;

19 (22) Violation of an assurance of compliance entered into under
20 section 38-1,108;

21 (23) Failure to pay an administrative penalty;

22 (24) Unprofessional conduct as defined in section 38-179;

23 (25) Violation of the Automated Medication Systems Act; ~~or~~

24 (26) Failure to comply with section 38-1,147; or ~~or~~

25 (27) Providing conversion therapy, gender identity conversion
26 therapy, or sexual orientation conversion therapy in violation of section
27 3 of this act.

28 Sec. 3. (1) Except as provided in subsection (3) of this section, a
29 person holding a credential under the Medicine and Surgery Practice Act,
30 the Mental Health Practice Act, the Nurse Practice Act, the Pharmacy
31 Practice Act, or the Psychology Practice Act shall not provide conversion

1 therapy, gender identity conversion therapy, or sexual orientation
2 conversion therapy to any individual under nineteen years of age.

3 (2) A violation of subsection (1) of this section shall constitute a
4 deceptive trade practice under the Uniform Deceptive Trade Practices Act
5 and shall be subject to any remedies or penalties available for a
6 violation of such act.

7 (3) This section does not apply to a practice or treatment conducted
8 by a clergy member or religious counselor who is acting in a pastoral or
9 religious capacity and not in the capacity of a health care professional.

10 (4) For purposes of this section:

11 (a)(i) Conversion therapy means a practice that seeks to change an
12 individual's sexual orientation or gender identity; and

13 (ii) Conversion therapy does not mean a practice that does not seek
14 to change an individual's sexual orientation or gender identity and that:

15 (A) Is neutral with respect to sexual orientation and gender
16 identity;

17 (B) Provides assistance to a patient or client undergoing gender
18 transition;

19 (C) Provides acceptance, support, and understanding to a patient or
20 client;

21 (D) Facilitates a patient's or client's ability to cope, develop
22 social support, and explore or understand the patient or client; or

23 (E) Addresses unlawful or unsafe sexual activities in a manner that
24 is neutral with respect to sexual orientation and gender identity;

25 (b) Gender identity conversion therapy means any psychotherapy,
26 counseling, or treatment, the goal of which is to alter the gender-
27 related identity of an individual so that such individual's gender
28 identity, appearance, expression, or behavior is eliminated, reduced, or
29 redirected to the individual's assigned sex at birth; and

30 (c) Sexual orientation conversion therapy means any psychotherapy,
31 counseling, or treatment, the goal of which is to alter the sexual or

1 romantic attraction, desire, or behavior of an individual toward other
2 individuals of the same sex so that the attraction and behavior of such
3 individual is eliminated, reduced, or redirected toward individuals of
4 the opposite sex.

5 (5) No state funds or funds belonging to a political subdivision of
6 this state shall be expended for the purpose of:

7 (a) Conducting conversion therapy, gender identity conversion
8 therapy, or sexual orientation conversion therapy;

9 (b) Referring a person for conversion therapy, gender identity
10 conversion therapy, or sexual orientation conversion therapy; or

11 (c) Providing health benefits coverage for conversion therapy,
12 gender identity conversion therapy, or sexual orientation conversion
13 therapy.

14 Sec. 4. Section 38-1706, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 38-1706 Massage therapy means a health care service involving the
17 physical, mechanical, or electrical manipulation of soft tissue for the
18 therapeutic purposes or to enhance wellness ~~of enhancing muscle~~
19 ~~relaxation, reducing stress, improving circulation, or instilling a~~
20 ~~greater sense of well-being~~ and may include the use of oil, salt glows,
21 heat lamps, and hydrotherapy. Massage therapy does not include diagnosis
22 or treatment or use of procedures for which a license to practice
23 medicine or surgery, chiropractic, or podiatry is required nor the use of
24 microwave diathermy, shortwave diathermy, ultrasound, transcutaneous
25 electrical nerve stimulation, electrical stimulation of over thirty-five
26 volts, neurological hyperstimulation, or spinal and joint adjustments.

27 Sec. 5. Section 38-2894, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 38-2894 (1) A registration to practice as a pharmacy technician may
30 be denied, refused renewal, removed, or suspended or have other
31 disciplinary measures taken against it by the department, with the

1 recommendation of the board, for failure to meet the requirements of or
2 for violation of any of the provisions of subdivisions (1) through (18)
3 and (20) through (27) ~~(26)~~ of section 38-178 and sections 38-2890 to
4 38-2897 or the rules and regulations adopted under such sections.

5 (2) If the department proposes to deny, refuse renewal of, or remove
6 or suspend a registration, it shall send the applicant or registrant a
7 notice setting forth the action to be taken and the reasons for the
8 determination. The denial, refusal to renew, removal, or suspension shall
9 become final thirty days after mailing the notice unless the applicant or
10 registrant gives written notice to the department of his or her desire
11 for an informal conference or for a formal hearing.

12 (3) Notice may be served by any method specified in section
13 25-505.01, or the department may permit substitute or constructive
14 service as provided in section 25-517.02 when service cannot be made with
15 reasonable diligence by any of the methods specified in section
16 25-505.01.

17 (4) Pharmacy technicians may participate in the Licensee Assistance
18 Program described in section 38-175.

19 Sec. 6. Original section 38-1706, Reissue Revised Statutes of
20 Nebraska, and sections 38-101, 38-178, and 38-2894, Revised Statutes
21 Cumulative Supplement, 2022, are repealed.