

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 286

Introduced by Walz, 15.

Read first time January 11, 2023

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Uniform Credentialing Act; to amend
2 sections 38-101 and 38-1,125, Revised Statutes Cumulative
3 Supplement, 2022; to provide for participation in a physician
4 wellness program; to provide an exception from reporting certain
5 acts as prescribed; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-101, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 38-101 Sections 38-101 to 38-1,147 and section 2 of this act and the
4 following practice acts shall be known and may be cited as the Uniform
5 Credentialing Act:

6 (1) The Advanced Practice Registered Nurse Practice Act;

7 (2) The Alcohol and Drug Counseling Practice Act;

8 (3) The Athletic Training Practice Act;

9 (4) The Audiology and Speech-Language Pathology Practice Act;

10 (5) The Certified Nurse Midwifery Practice Act;

11 (6) The Certified Registered Nurse Anesthetist Practice Act;

12 (7) The Chiropractic Practice Act;

13 (8) The Clinical Nurse Specialist Practice Act;

14 (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and
15 Body Art Practice Act;

16 (10) The Dentistry Practice Act;

17 (11) The Dialysis Patient Care Technician Registration Act;

18 (12) The Emergency Medical Services Practice Act;

19 (13) The Environmental Health Specialists Practice Act;

20 (14) The Funeral Directing and Embalming Practice Act;

21 (15) The Genetic Counseling Practice Act;

22 (16) The Hearing Instrument Specialists Practice Act;

23 (17) The Licensed Practical Nurse-Certified Practice Act until
24 November 1, 2017;

25 (18) The Massage Therapy Practice Act;

26 (19) The Medical Nutrition Therapy Practice Act;

27 (20) The Medical Radiography Practice Act;

28 (21) The Medicine and Surgery Practice Act;

29 (22) The Mental Health Practice Act;

30 (23) The Nurse Practice Act;

31 (24) The Nurse Practitioner Practice Act;

- 1 (25) The Nursing Home Administrator Practice Act;
- 2 (26) The Occupational Therapy Practice Act;
- 3 (27) The Optometry Practice Act;
- 4 (28) The Perfusion Practice Act;
- 5 (29) The Pharmacy Practice Act;
- 6 (30) The Physical Therapy Practice Act;
- 7 (31) The Podiatry Practice Act;
- 8 (32) The Psychology Practice Act;
- 9 (33) The Respiratory Care Practice Act;
- 10 (34) The Surgical First Assistant Practice Act; and
- 11 (35) The Veterinary Medicine and Surgery Practice Act.

12 If there is any conflict between any provision of sections 38-101 to
13 38-1,147 and section 2 of this act and any provision of a practice act,
14 the provision of the practice act shall prevail except as otherwise
15 specifically provided in section 38-129.02.

16 Sec. 2. (1) For purposes of this section, the following definitions
17 apply:

18 (a) Physician peer coach means any health care provider licensed to
19 practice medicine or surgery who provides coaching, training, or
20 mentoring through a physician wellness program to another health care
21 provider licensed to practice medicine or surgery under the Uniform
22 Credentialing Act or to a student of an accredited school or college of
23 medicine; and

24 (b) Physician wellness program means a program that (i) provides
25 coaching, training, and mentoring services by physician peer coaches or
26 coaches certified by a nationally recognized credentialing program for
27 coach practitioners for the purpose of addressing issues related to
28 career fatigue and wellness for individuals licensed to practice medicine
29 and surgery under the Uniform Credentialing Act and students of an
30 accredited school or college of medicine and (ii) is established,
31 organized, or contracted by any statewide association exempt from

1 taxation under section 501(c)(6) of the Internal Revenue Code of 1986
2 that primarily represents health care providers in multiple specialties
3 who are licensed to practice medicine and surgery under the Uniform
4 Credentialing Act. A physician wellness program does not include a
5 program of evaluation, monitoring, treatment, or referral.

6 (2) Any record of a person's participation in a physician wellness
7 program is confidential and not subject to discovery, subpoena, or a
8 reporting requirement to the department unless the person voluntarily
9 requests release of the information in writing or the physician peer
10 coach determines that the person's condition constitutes a danger to the
11 public health and safety by the person's continued practice of medicine
12 or surgery.

13 (3) A person who contacts or participates in a physician wellness
14 program shall not be required to disclose such contact or participation
15 to any health care facility, hospital, medical staff person,
16 accreditation organization, graduate medical education oversight body,
17 health insurer, government agency, or other entity as a condition of
18 participation, employment, credentialing, payment, licensure, compliance,
19 or other requirement.

20 Sec. 3. Section 38-1,125, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 38-1,125 (1) Except as otherwise provided in section 38-2897, every
23 credential holder shall, within thirty days of an occurrence described in
24 this subsection, report to the department in such manner and form as the
25 department may require whenever he or she:

26 (a) Has first-hand knowledge of facts giving him or her reason to
27 believe that any person in his or her profession:

28 (i) Has acted with gross incompetence or gross negligence;

29 (ii) Has engaged in a pattern of incompetent or negligent conduct as
30 defined in section 38-177;

31 (iii) Has engaged in unprofessional conduct as defined in section

1 38-179;

2 (iv) Has been practicing while his or her ability to practice is
3 impaired by alcohol, controlled substances, mind-altering substances, or
4 physical, mental, or emotional disability; or

5 (v) Has otherwise violated the regulatory provisions governing the
6 practice of the profession;

7 (b) Has first-hand knowledge of facts giving him or her reason to
8 believe that any person in another profession:

9 (i) Has acted with gross incompetence or gross negligence; or

10 (ii) Has been practicing while his or her ability to practice is
11 impaired by alcohol, controlled substances, mind-altering substances, or
12 physical, mental, or emotional disability; or

13 (c) Has been the subject of any of the following actions:

14 (i) Loss of privileges in a hospital or other health care facility
15 due to alleged incompetence, negligence, unethical or unprofessional
16 conduct, or physical, mental, or chemical impairment or the voluntary
17 limitation of privileges or resignation from the staff of any health care
18 facility when that occurred while under formal or informal investigation
19 or evaluation by the facility or a committee of the facility for issues
20 of clinical competence, unprofessional conduct, or physical, mental, or
21 chemical impairment;

22 (ii) Loss of employment due to alleged incompetence, negligence,
23 unethical or unprofessional conduct, or physical, mental, or chemical
24 impairment;

25 (iii) An adverse judgment, settlement, or award arising out of a
26 professional liability claim, including a settlement made prior to suit
27 in which the consumer releases any professional liability claim against
28 the credentialed person, or adverse action by an insurance company
29 affecting professional liability coverage. The department may define what
30 constitutes a settlement that would be reportable when a credential
31 holder refunds or reduces a fee or makes no charge for reasons related to

1 a consumer complaint other than costs;

2 (iv) Denial of a credential or other form of authorization to
3 practice by any jurisdiction due to alleged incompetence, negligence,
4 unethical or unprofessional conduct, or physical, mental, or chemical
5 impairment;

6 (v) Disciplinary action against any credential or other form of
7 permit he or she holds taken by any jurisdiction, the settlement of such
8 action, or any voluntary surrender of or limitation on any such
9 credential or other form of permit;

10 (vi) Loss of membership in, or discipline of a credential related to
11 the applicable profession by, a professional organization due to alleged
12 incompetence, negligence, unethical or unprofessional conduct, or
13 physical, mental, or chemical impairment; or

14 (vii) Conviction of any misdemeanor or felony in this or any other
15 jurisdiction.

16 (2) The requirement to file a report under subdivision (1)(a) or (b)
17 of this section shall not apply:

18 (a) To the spouse of the credential holder;

19 (b) To a practitioner who is providing treatment to such credential
20 holder in a practitioner-consumer relationship concerning information
21 obtained or discovered in the course of treatment unless the treating
22 practitioner determines that the condition of the credential holder may
23 be of a nature which constitutes a danger to the public health and safety
24 by the credential holder's continued practice;~~or~~

25 (c) When a credential holder who is chemically impaired enters the
26 Licensee Assistance Program authorized by section 38-175 except as
27 otherwise provided in such section; or -

28 (d) To a credential holder who is providing coaching, training, or
29 mentoring services to another credential holder through a physician
30 wellness program as defined in section 2 of this act except as otherwise
31 provided in section 2 of this act.

1 (3) A report submitted by a professional liability insurance company
2 on behalf of a credential holder within the thirty-day period prescribed
3 in subsection (1) of this section shall be sufficient to satisfy the
4 credential holder's reporting requirement under subsection (1) of this
5 section.

6 Sec. 4. Original sections 38-101 and 38-1,125, Revised Statutes
7 Cumulative Supplement, 2022, are repealed.