

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 614

Introduced by Howard, 9.

Read first time January 21, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Mental Health Practice Act; to amend
2 sections 38-121, 38-2101, 38-2102, 38-2103, 38-2121,
3 38-2125, 38-2127, 38-2138, and 38-2139, Reissue Revised
4 Statutes of Nebraska; to provide for licensure of macro
5 social workers; to harmonize provisions; and to repeal
6 the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-121, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 38-121 (1) No individual shall engage in the following
4 practices unless such individual has obtained a credential under
5 the Uniform Credentialing Act:

- 6 (a) Acupuncture;
- 7 (b) Advanced practice nursing;
- 8 (c) Alcohol and drug counseling;
- 9 (d) Asbestos abatement, inspection, project design, and
10 training;
- 11 (e) Athletic training;
- 12 (f) Audiology;
- 13 (g) Speech-language pathology;
- 14 (h) Body art;
- 15 (i) Chiropractic;
- 16 (j) Cosmetology;
- 17 (k) Dentistry;
- 18 (l) Dental hygiene;
- 19 (m) Electrology;
- 20 (n) Emergency medical services;
- 21 (o) Esthetics;
- 22 (p) Funeral directing and embalming;
- 23 (q) Hearing aid instrument dispensing and fitting;
- 24 (r) Lead-based paint abatement, inspection, project
25 design, and training;

- 1 (s) Licensed practical nurse-certified;
- 2 (t) Licensed master social work;
- 3 ~~(t)~~ (u) Massage therapy;
- 4 ~~(u)~~ (v) Medical nutrition therapy;
- 5 ~~(v)~~ (w) Medical radiography;
- 6 ~~(w)~~ (x) Medicine and surgery;
- 7 ~~(x)~~ (y) Mental health practice;
- 8 ~~(y)~~ (z) Nail technology;
- 9 ~~(z)~~ (aa) Nursing;
- 10 ~~(aa)~~ (bb) Nursing home administration;
- 11 ~~(bb)~~ (cc) Occupational therapy;
- 12 ~~(cc)~~ (dd) Optometry;
- 13 ~~(dd)~~ (ee) Osteopathy;
- 14 ~~(ee)~~ (ff) Perfusion;
- 15 ~~(ff)~~ (gg) Pharmacy;
- 16 ~~(gg)~~ (hh) Physical therapy;
- 17 ~~(hh)~~ (ii) Podiatry;
- 18 ~~(ii)~~ (jj) Psychology;
- 19 ~~(jj)~~ (kk) Radon detection, measurement, and mitigation;
- 20 ~~(kk)~~ (ll) Respiratory care;
- 21 ~~(ll)~~ (mm) Veterinary medicine and surgery;
- 22 ~~(mm)~~ (nn) Public water system operation; and
- 23 ~~(nn)~~ (oo) Constructing or decommissioning water wells and
- 24 installing water well pumps and pumping equipment.
- 25 (2) No individual shall hold himself or herself out

1 as any of the following until such individual has obtained a
2 credential under the Uniform Credentialing Act for that purpose:

- 3 (a) Registered environmental health specialist;
4 (b) Certified marriage and family therapist;
5 (c) Certified professional counselor; or
6 (d) ~~Social~~ Certified master social worker or certified
7 social worker.

8 (3) No business shall operate for the provision of any
9 of the following services unless such business has obtained a
10 credential under the Uniform Credentialing Act:

- 11 (a) Body art;
12 (b) Cosmetology;
13 (c) Emergency medical services;
14 (d) Esthetics;
15 (e) Funeral directing and embalming;
16 (f) Massage therapy; or
17 (g) Nail technology.

18 Sec. 2. Section 38-2101, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 38-2101 Sections 38-2101 to 38-2139 and sections 5 to 7
21 and 9 to 11 of this act shall be known and may be cited as the
22 Mental Health Practice Act.

23 Sec. 3. Section 38-2102, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 38-2102 The Legislature finds that, because many mental

1 health practitioners are not regulated in this state, anyone may
2 offer mental health services by using an unrestricted title and
3 that there is no means for identifying qualified practitioners, for
4 enforcing professional standards, or for holding such practitioners
5 accountable for their actions. Therefor the Legislature determines
6 that, in the interest of consumer protection and for the protection
7 of public health, safety, and welfare, individuals should be
8 provided a means by which they can be assured that their selection
9 of a mental health practitioner is based on sound criteria and
10 that the activities of those persons who by any title may offer or
11 deliver therapeutic mental health services should be regulated.

12 The purpose of licensing mental health practitioners is
13 to provide for an omnibus title for such persons and to provide for
14 associated certification of social workers, master social workers,
15 professional counselors, and marriage and family therapists.

16 The purpose of licensing macro social workers is to
17 provide for credentialing of a specialized facet of social work.

18 Sec. 4. Section 38-2103, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 38-2103 For purposes of the Mental Health Practice Act
21 and elsewhere in the Uniform Credentialing Act, unless the context
22 otherwise requires, the definitions found in sections 38-2104 to
23 38-2119 and sections 5 to 7 of this act apply.

24 Sec. 5. Licensed master social worker means a person who
25 meets the standards established in subsection (1) of section 9 of

1 this act and who holds a current license issued by the department.

2 Sec. 6. (1) Licensed master social work practice or the
3 practice of macro social work means the professional application
4 of social work theory, values, knowledge, principles, methods,
5 and ethics and the professional use of self-to-community and
6 organizational systems, systemic issues, and other indirect,
7 nonclinical services.

8 (2) Macro social work includes:

9 (a) Analyzing and critiquing organizational structure;

10 (b) Specialized knowledge and advanced practice skills in
11 case management;

12 (c) Information and referral;

13 (d) Nonclinical assessments;

14 (e) Process and outcome evaluation;

15 (f) Mediation;

16 (g) Administrative supervision;

17 (h) Administrative consultation;

18 (i) Expert testimony;

19 (j) Education;

20 (k) Research;

21 (l) Advocacy;

22 (m) Social planning and policy development;

23 (n) Community organization; and

24 (o) Development, implementation, and administration of
25 policies, programs, and activities, including budget and financial

1 management and strategic planning.

2 Sec. 7. Qualified macro social work supervisor means:

3 (1) A licensed master social worker who has (a) practiced
4 in the field of macro social work in which he or she is supervising
5 the applicant for a license as a licensed master social worker for
6 at least five consecutive years, (b) met additional requirements
7 established by rules and regulations adopted and promulgated by the
8 department with the recommendation of the board, and (c) received
9 approval from the board; or

10 (2) A qualified supervisor. For purposes of this section,
11 qualified supervisor means a certified master social worker who:

12 (a) Is currently practicing in the field of macro social
13 work in which he or she is supervising the applicant for a license
14 as a licensed master social worker;

15 (b) Has a minimum of five consecutive years of practice
16 in the field of macro social work in which he or she is supervising
17 the applicant for a license as a licensed master social worker;

18 (c) Has met additional requirements established by rules
19 and regulations adopted and promulgated by the department with the
20 recommendation of the board;

21 (d) Provides both a personal affidavit and an employer
22 affidavit certifying five years of consecutive full-time macro
23 social work experience; and

24 (e) Has received approval from the board.

25 Sec. 8. Section 38-2121, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 38-2121 The requirement to be licensed as a mental health
3 practitioner or as a master social worker pursuant to the Uniform
4 Credentialing Act in order to engage in mental health practice
5 or licensed master social work practice shall not be construed to
6 prevent:

7 (1) Qualified members of other professions who are
8 licensed, certified, or registered by this state from practice
9 of any mental health activity consistent with the scope of practice
10 of their respective professions;

11 (2) Alcohol and drug counselors who are licensed by
12 the Division of Public Health of the Department of Health and
13 Human Services and problem gambling counselors who are certified
14 by the Department of Health and Human Services from practicing
15 their profession. Such exclusion shall include students training
16 and working under the supervision of an individual qualified under
17 section 38-315;

18 (3) Any person employed by an agency, bureau, or division
19 of the federal government from discharging his or her official
20 duties, except that if such person engages in mental health
21 practice in this state outside the scope of such official duty
22 or represents himself or herself as a licensed mental health
23 practitioner, he or she shall be licensed;

24 (4) Teaching or the conduct of research related to mental
25 health services or consultation with organizations or institutions

1 if such teaching, research, or consultation does not involve the
2 delivery or supervision of mental health services to individuals
3 or groups of individuals who are themselves, rather than a third
4 party, the intended beneficiaries of such services;

5 (5) The delivery of mental health services by:

6 (a) Students, interns, or residents whose activities
7 constitute a part of the course of study for medicine, psychology,
8 nursing, school psychology, social work, clinical social work,
9 counseling, marriage and family therapy, or other health care or
10 mental health service professions; or

11 (b) Individuals seeking to fulfill postgraduate
12 requirements for licensure when those individuals are supervised by
13 a licensed professional consistent with the applicable regulations
14 of the appropriate professional board;

15 (6) Duly recognized members of the clergy from providing
16 mental health services in the course of their ministerial duties
17 and consistent with the codes of ethics of their profession if they
18 do not represent themselves to be mental health practitioners;

19 (7) The incidental exchange of advice or support by
20 persons who do not represent themselves as engaging in mental
21 health practice, including participation in self-help groups when
22 the leaders of such groups receive no compensation for their
23 participation and do not represent themselves as mental health
24 practitioners or their services as mental health practice;

25 (8) Any person providing emergency crisis intervention

1 or referral services or limited services supporting a service plan
2 developed by and delivered under the supervision of a licensed
3 mental health practitioner, licensed physician, or a psychologist
4 licensed to engage in the practice of psychology if such persons
5 are not represented as being licensed mental health practitioners
6 or their services are not represented as mental health practice; or

7 (9) Staff employed in a program designated by an agency
8 of state government to provide rehabilitation and support services
9 to individuals with mental illness from completing a rehabilitation
10 assessment or preparing, implementing, and evaluating an individual
11 rehabilitation plan.

12 Sec. 9. (1) A person shall be qualified to be a licensed
13 master social worker if he or she:

14 (a) Has received a master's or doctorate degree that
15 consists of course work and training in social work from an
16 approved educational program;

17 (b) Has successfully completed three thousand hours of
18 supervised experience in licensed master social work practice with
19 a qualified macro social work supervisor. Such three thousand hours
20 shall be accumulated after completion of the master's or doctorate
21 degree, during the five years immediately preceding the application
22 for licensure, and during a consecutive period of no less than
23 twenty-four months and no more than forty-eight months; and

24 (c) Has satisfactorily passed an examination approved by
25 the board.

1 (2) A person who presents proof to the department of (a)
2 educational credentials which meet the requirements of subdivision
3 (1) (a) of this section and (b) the completion of five years of
4 consecutive full-time macro social work experience after January
5 1, 2004, and before January 1, 2014, may be issued a license as
6 a licensed master social worker upon payment of the fee for such
7 license.

8 Sec. 10. (1) A person who needs to obtain the required
9 three thousand hours of supervised experience in licensed master
10 social work practice as specified in section 9 of this act to
11 qualify for a license as a licensed master social worker shall
12 obtain a provisional license as a master social worker. To qualify
13 for a provisional license as a master social worker, such person
14 shall:

15 (a) Have a master's or doctorate degree that consists
16 of course work and training in social work from an approved
17 educational program as specified in section 9 of this act;

18 (b) Apply prior to earning the three thousand hours of
19 supervised experience; and

20 (c) Pay the fee for a provisional license as a master
21 social worker.

22 (2) A provisional license as a master social worker shall
23 expire upon receipt of licensure as a licensed master social worker
24 or five years after the date of issuance, whichever comes first.

25 (3) A person who holds a provisional license as a master

1 social worker shall inform all clients that he or she holds a
2 provisional license and is engaging in licensed master social work
3 practice under supervision and shall identify the qualified macro
4 social work supervisor. Failure to make such disclosure is a ground
5 for discipline as set forth in section 38-2139.

6 Sec. 11. (1) No person shall use the title licensed
7 master social worker and engage in licensed master social work
8 practice unless he or she is licensed as a licensed master social
9 worker as provided in the Mental Health Practice Act.

10 (2) A licensed master social worker shall not be
11 authorized under such license to treat mental or emotional
12 disorders, provide psychotherapy, or diagnose a mental disorder.

13 Sec. 12. Section 38-2125, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 38-2125 The department, with the recommendation of the
16 board, may issue a license as a mental health practitioner or a
17 licensed master social worker based on licensure or certification
18 in another jurisdiction to an individual who meets the applicable
19 licensure requirements of the Mental Health Practice Act as a
20 mental health practitioner or a licensed master social worker
21 or substantially equivalent requirements as determined by the
22 department, with the recommendation of the board.

23 Sec. 13. Section 38-2127, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 38-2127 The requirement to be certified as a social

1 worker pursuant to the Uniform Credentialing Act in order to
2 represent himself or herself as a social worker shall not be
3 construed to prevent:

4 (1) Qualified members of other professions, including,
5 but not limited to, licensed physicians, registered or licensed
6 practical nurses, attorneys, marriage and family therapists,
7 licensed master social workers, psychologists, psychotherapists,
8 vocational guidance counselors, school psychologists, members of
9 the clergy, court employees, or other persons credentialed under
10 the Uniform Credentialing Act from doing work consistent with the
11 scope of practice of their respective professions, except that such
12 qualified members shall not hold themselves out to the public by
13 title as being engaged in the practice of social work; or

14 (2) The activities and services of a student or intern
15 in social work practice who is pursuing a course of study in
16 an approved educational program if the activities and services
17 constitute a part of his or her supervised course of study
18 or experience for certification and are performed under the
19 supervision of a certified master social worker and the person
20 is identified by an appropriate title as a social work student
21 or intern. For purposes of this subdivision, supervision means
22 that written records of services or procedures are examined and
23 evaluative interviews are conducted relative thereto by a certified
24 master social worker.

25 Sec. 14. Section 38-2138, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 38-2138 The board shall adopt a code of ethics which
3 is essentially in agreement with the current code of ethics of
4 the national and state associations of the specialty professions
5 included in mental health practice and licensed master social work
6 practice and which the board deems necessary to assure adequate
7 protection of the public in the provision ~~of mental health services~~
8 to the public of mental health services and services of licensed
9 master social workers. A violation of the code of ethics shall be
10 considered an act of unprofessional conduct.

11 The board shall ensure through the code of ethics and
12 the rules and regulations adopted and promulgated under the Mental
13 Health Practice Act that persons licensed or certified pursuant to
14 the act limit their practice to demonstrated areas of competence
15 as documented by relevant professional education, training, and
16 experience.

17 Intentional failure by a mental health practitioner
18 or a licensed master social worker to report known acts of
19 unprofessional conduct by a mental health practitioner or a
20 licensed master social worker to the department or the board
21 shall be considered an act of unprofessional conduct and shall be
22 grounds for disciplinary action under appropriate sections of the
23 Uniform Credentialing Act unless the mental health practitioner or
24 licensed master social worker has acquired such knowledge in a
25 professional relationship otherwise protected by confidentiality.

1 Sec. 15. Section 38-2139, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 38-2139 In addition to the grounds for disciplinary
4 action found in sections 38-178 and 38-179, a credential subject
5 to the Mental Health Practice Act may be denied, refused renewal,
6 limited, revoked, or suspended or have other disciplinary measures
7 taken against it in accordance with section 38-196 when the
8 applicant or licensee fails to disclose the information required by
9 section 38-2123 or 38-2129 or section 10 of this act.

10 Sec. 16. Original sections 38-121, 38-2101, 38-2102,
11 38-2103, 38-2121, 38-2125, 38-2127, 38-2138, and 38-2139, Reissue
12 Revised Statutes of Nebraska, are repealed.