

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 831

Final Reading

Introduced by Howard, 9.

Read first time January 05, 2012

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Uniform Credentialing Act; to amend
2 section 38-186, Reissue Revised Statutes of Nebraska, and
3 sections 38-101 and 38-121, Revised Statutes Cumulative
4 Supplement, 2010; to adopt the Genetic Counseling
5 Practice Act; to harmonize provisions; and to repeal the
6 original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 25 of this act shall be known
2 and may be cited as the Genetic Counseling Practice Act.

3 Sec. 2. For purposes of the Genetic Counseling Practice
4 Act, the definitions found in sections 3 to 14 of this act shall
5 apply.

6 Sec. 3. Active candidate means an individual who has (1)
7 met the requirements established by the national genetic counseling
8 board to take the national certification examination in general
9 genetics or genetic counseling and (2) been granted active candidate
10 status by the national genetic counseling board.

11 Sec. 4. Certification examination means the examination
12 offered by either the national genetic counseling board or the
13 national medical genetics board.

14 Sec. 5. Genetic counseling means the provision of
15 services described in section 15 of this act.

16 Sec. 6. Genetic counseling intern means a student
17 enrolled in a genetic counseling program accredited by the national
18 genetic counseling board.

19 Sec. 7. Genetic counselor means an individual licensed
20 under the Genetic Counseling Practice Act.

21 Sec. 8. National genetic counseling board means the
22 American Board of Genetic Counseling or its successor or equivalent.

23 Sec. 9. National medical genetics board means the
24 American Board of Medical Genetics or its successor or equivalent.

25 Sec. 10. Physician means an individual licensed under the

1 Medicine and Surgery Practice Act to practice medicine and surgery or
2 osteopathic medicine and surgery.

3 Sec. 11. Qualified supervisor means a genetic counselor
4 or a physician.

5 Sec. 12. State board means the Board of Medicine and
6 Surgery.

7 Sec. 13. Supervisee means an individual holding a
8 provisional license issued under section 20 of this act.

9 Sec. 14. Supervision means the overall responsibility to
10 assess the work of a supervisee, including regular meetings and chart
11 review by a qualified supervisor pursuant to an annual supervision
12 contract signed by the qualified supervisor and the supervisee which
13 is on file with both parties. The presence of a qualified supervisor
14 is not required during the performance of services by the supervisee.

15 Sec. 15. The scope of practice of a genetic counselor is:

16 (1) Obtaining and evaluating individual, family, and
17 medical histories to determine genetic risk for genetic or medical
18 conditions and diseases in a patient, his or her offspring, and other
19 family members;

20 (2) Discussing features, natural history, means of
21 diagnosis, genetic and environmental factors, and management of risk
22 for genetic or medical conditions and diseases;

23 (3) Identifying and coordinating of genetic laboratory
24 tests and other diagnostic studies as appropriate for the genetic
25 assessment;

1 (4) Integrating genetic laboratory test results and other
2 diagnostic studies with personal and family medical history to assess
3 and communicate risk factors for genetic or medical conditions and
4 diseases;

5 (5) Explaining the clinical implications of genetic
6 laboratory tests and other diagnostic studies and their results;

7 (6) Evaluating the client's or family's responses to
8 genetic or medical conditions identified by the genetic assessment or
9 risk of recurrence and providing client-centered counseling and
10 anticipatory guidance;

11 (7) Identifying and utilizing community resources that
12 provide medical, educational, financial, and psychosocial support and
13 advocacy; and

14 (8) Providing written documentation of medical, genetic,
15 and counseling information for families and health care
16 professionals.

17 Sec. 16. Except as provided in the Genetic Counseling
18 Practice Act, on and after January 1, 2013, no individual shall
19 engage in the practice of genetic counseling unless he or she is
20 licensed under the act.

21 Sec. 17. The Genetic Counseling Practice Act does not
22 apply to:

23 (1) An individual licensed under the Uniform
24 Credentialing Act to practice a profession other than genetic
25 counseling when acting within the scope of his or her profession and

1 doing work of a nature consistent with his or her training, except
2 that such individual shall not hold himself or herself out to the
3 public as a genetic counselor;

4 (2) An individual employed by the United States
5 Government or an agency thereof to provide genetic counseling if he
6 or she provides genetic counseling solely under the direction and
7 control of the organization by which he or she is employed;

8 (3) A genetic counseling intern if genetic counseling
9 performed by the genetic counseling intern is an integral part of the
10 course of study and is performed under the direct supervision of a
11 genetic counselor who is on duty and available in the assigned
12 patient care area and if the genetic counseling intern is designated
13 by the title genetic counseling intern; or

14 (4) An individual certified by the national genetic
15 counseling board or the national medical genetics board to provide
16 genetic counseling who permanently resides outside the state and is
17 providing consulting services within the state for a period of two
18 months or less.

19 Sec. 18. Except as provided in section 20 of this act, an
20 applicant for licensure as a genetic counselor shall provide
21 satisfactory evidence that he or she is certified as a genetic
22 counselor by either the national genetic counseling board or the
23 national medical genetics board.

24 Sec. 19. (1) The department, with the recommendation of
25 the state board, may issue a license under the Genetic Counseling

1 Practice Act based on licensure in another jurisdiction to an
2 individual who meets the requirements of the Genetic Counseling
3 Practice Act or substantially equivalent requirements as determined
4 by the department, with the recommendation of the state board.

5 (2) An individual practicing genetic counseling in
6 Nebraska before January 1, 2013, may apply for licensure under the
7 act if, on or before July 1, 2013, he or she:

8 (a) Provides satisfactory evidence to the state board
9 that he or she (i) has practiced genetic counseling for a minimum of
10 ten years preceding January 1, 2013, (ii) has a postbaccalaureate
11 degree at the master's level or higher in genetics or a related field
12 of study, and (iii) has never failed the certification examination;

13 (b) Submits three letters of recommendation from at least
14 one individual practicing genetic counseling who qualifies for
15 licensure under the Genetic Counseling Practice Act and either a
16 clinical geneticist or medical geneticist certified by the national
17 medical genetics board. An individual submitting a letter of
18 recommendation shall have worked with the applicant in an employment
19 setting during at least five of the ten years preceding submission of
20 the letter and be able to attest to the applicant's competency in
21 providing genetic counseling; and

22 (c) Provides documentation of attending approved
23 continuing education programs within the five years preceding
24 application.

25 Sec. 20. (1) The department, on the recommendation of the

1 state board, may issue a provisional license to practice genetic
2 counseling to an individual who meets all of the requirements for
3 licensure under the Genetic Counseling Practice Act except for
4 certification and who has been granted active candidate status. Such
5 license shall be valid for one year from the date of issuance and may
6 be renewed for one additional year if the applicant fails the
7 certification examination one time. The provisional license shall
8 expire automatically upon the earliest of the following:

9 (a) Issuance of a license as a genetic counselor under
10 the Genetic Counseling Practice Act;

11 (b) Thirty days after the applicant fails to pass the
12 complete certification examination; or

13 (c) The date printed on the provisional license.

14 (2) An application for extension of a provisional license
15 shall be signed by a qualified supervisor. A provisional licensee
16 shall work at all times under the supervision of a qualified
17 supervisor.

18 Sec. 21. On and after January 1, 2013, no individual
19 shall hold himself or herself out as a genetic counselor unless he or
20 she is licensed in accordance with the Genetic Counseling Practice
21 Act. An individual who is not so licensed may not use, in connection
22 with his or her name or place of business, the title genetic
23 counselor, licensed genetic counselor, gene counselor, genetic
24 consultant, or genetic associate, or any words, letters,
25 abbreviations, or insignia indicating or implying that he or she

1 holds a license under the act.

2 Sec. 22. The department shall adopt and promulgate rules
3 and regulations as it may deem necessary with reference to the
4 conditions under which the practice of genetic counseling shall be
5 carried on. The department shall have the power to enforce the
6 Genetic Counseling Practice Act.

7 Sec. 23. The department shall establish and collect fees
8 for credentialing under the Genetic Counseling Practice Act as
9 provided in sections 38-151 to 38-157.

10 Sec. 24. The Genetic Counseling Practice Act shall not be
11 construed to require any genetic counselor to counsel or refer for
12 abortion, and licensing of a genetic counselor shall not be
13 contingent upon his or her participation in counseling or referral
14 with respect to abortion. The refusal of a genetic counselor to
15 participate in counseling or referral with respect to abortion shall
16 not form the basis for any claim of damages on account of the refusal
17 or for any disciplinary or recriminatory action against the genetic
18 counselor if the genetic counselor informs the patient that the
19 genetic counselor will not participate in counseling or referral with
20 respect to abortion and offers to direct the patient to the online
21 directory of licensed genetic counselors maintained by the
22 department.

23 Sec. 25. The department shall maintain an online
24 directory of all genetic counselors licensed by the department.

25 Sec. 26. Section 38-101, Revised Statutes Cumulative

1 Supplement, 2010, is amended to read:

2 38-101 Sections 38-101 to 38-1,140 and the following
3 practice acts shall be known and may be cited as the Uniform
4 Credentialing Act:

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

1 ~~(16)~~(17) The Massage Therapy Practice Act;
2 ~~(17)~~(18) The Medical Nutrition Therapy Practice Act;
3 ~~(18)~~(19) The Medical Radiography Practice Act;
4 ~~(19)~~(20) The Medicine and Surgery Practice Act;
5 ~~(20)~~(21) The Mental Health Practice Act;
6 ~~(21)~~(22) The Nurse Practice Act;
7 ~~(22)~~(23) The Nurse Practitioner Practice Act;
8 ~~(23)~~(24) The Nursing Home Administrator Practice Act;
9 ~~(24)~~(25) The Occupational Therapy Practice Act;
10 ~~(25)~~(26) The Optometry Practice Act;
11 ~~(26)~~(27) The Perfusion Practice Act;
12 ~~(27)~~(28) The Pharmacy Practice Act;
13 ~~(28)~~(29) The Physical Therapy Practice Act;
14 ~~(29)~~(30) The Podiatry Practice Act;
15 ~~(30)~~(31) The Psychology Practice Act;
16 ~~(31)~~(32) The Respiratory Care Practice Act;
17 ~~(32)~~(33) The Veterinary Medicine and Surgery Practice
18 Act; and
19 ~~(33)~~(34) The Water Well Standards and Contractors'
20 Practice Act.

21 If there is any conflict between any provision of
22 sections 38-101 to 38-1,139 and any provision of a practice act, the
23 provision of the practice act shall prevail.

24 The Revisor of Statutes shall assign the Uniform
25 Credentialing Act, including the practice acts enumerated in

1 subdivisions (1) through ~~(32)~~(33) of this section, to consecutive
2 articles within Chapter 38.

3 Sec. 27. Section 38-121, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

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

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

1 ~~(q)~~(r) Hearing instrument dispensing and fitting;

2 ~~(r)~~(s) Lead-based paint abatement, inspection, project

3 design, and training;

4 ~~(s)~~(t) Licensed practical nurse-certified;

5 ~~(t)~~(u) Massage therapy;

6 ~~(u)~~(v) Medical nutrition therapy;

7 ~~(v)~~(w) Medical radiography;

8 ~~(w)~~(x) Medicine and surgery;

9 ~~(x)~~(y) Mental health practice;

10 ~~(y)~~(z) Nail technology;

11 ~~(z)~~(aa) Nursing;

12 ~~(aa)~~(bb) Nursing home administration;

13 ~~(bb)~~(cc) Occupational therapy;

14 ~~(ee)~~(dd) Optometry;

15 ~~(dd)~~(ee) Osteopathy;

16 ~~(ee)~~(ff) Perfusion;

17 ~~(ff)~~(gg) Pharmacy;

18 ~~(gg)~~(hh) Physical therapy;

19 ~~(hh)~~(ii) Podiatry;

20 ~~(ii)~~(jj) Psychology;

21 ~~(jj)~~(kk) Radon detection, measurement, and mitigation;

22 ~~(kk)~~(ll) Respiratory care;

23 ~~(ll)~~(mm) Veterinary medicine and surgery;

24 ~~(mm)~~(nn) Public water system operation; and

25 ~~(nn)~~(oo) Constructing or decommissioning water wells and

1 installing water well pumps and pumping equipment.

2 (2) No individual shall hold himself or herself out as
3 any of the following until such individual has obtained a credential
4 under the Uniform Credentialing Act for that purpose:

5 (a) Registered environmental health specialist;

6 (b) Certified marriage and family therapist;

7 (c) Certified professional counselor; or

8 (d) Social worker.

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

12 (a) Body art;

13 (b) Cosmetology;

14 (c) Emergency medical services;

15 (d) Esthetics;

16 (e) Funeral directing and embalming;

17 (f) Massage therapy; or

18 (g) Nail technology.

19 Sec. 28. Section 38-186, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 38-186 (1) A petition shall be filed by the Attorney
22 General in order for the director to discipline a credential obtained
23 under the Uniform Credentialing Act to:

24 (a) Practice or represent oneself as being certified
25 under any of the practice acts enumerated in subdivisions (1) through

1 ~~(17)-(18)~~ and ~~(19)-(20)~~ through ~~(31)-(32)~~ of section 38-101; or

2 (b) Operate as a business for the provision of services
3 in body art; cosmetology; emergency medical services; esthetics;
4 funeral directing and embalming; massage therapy; and nail technology
5 in accordance with subsection (3) of section 38-121.

6 (2) The petition shall be filed in the office of the
7 director. The department may withhold a petition for discipline or a
8 final decision from public access for a period of five days from the
9 date of filing the petition or the date the decision is entered or
10 until service is made, whichever is earliest.

11 (3) The proceeding shall be summary in its nature and
12 triable as an equity action and shall be heard by the director or by
13 a hearing officer designated by the director under rules and
14 regulations of the department. Affidavits may be received in evidence
15 in the discretion of the director or hearing officer. The department
16 shall have the power to administer oaths, to subpoena witnesses and
17 compel their attendance, and to issue subpoenas duces tecum and
18 require the production of books, accounts, and documents in the same
19 manner and to the same extent as the district courts of the state.
20 Depositions may be used by either party.

21 Sec. 29. Original section 38-186, Reissue Revised
22 Statutes of Nebraska, and sections 38-101 and 38-121, Revised
23 Statutes Cumulative Supplement, 2010, are repealed.