

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1108

FINAL READING

Introduced by Erdman, 47.

Read first time January 23, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to mental health practitioners; to amend
2 sections 38-2112, 38-2115, 38-2116, and 38-2124, Revised
3 Statutes Supplement, 2007; to redefine a term; to
4 change licensure and practice provisions; to provide
5 an operative date; and to repeal the original sections.

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

1 Section 1. Section 38-2112, Revised Statutes Supplement,
2 2007, is amended to read:

3 38-2112 Consultation means a professional collaborative
4 relationship between a licensed mental health practitioner and a
5 consultant who is a psychologist licensed to engage in the practice
6 of psychology as provided in section 38-3111, ~~or~~ a qualified
7 physician, or a licensed independent mental health practitioner in
8 which (1) the consultant makes a diagnosis based on information
9 supplied by the licensed mental health practitioner and any
10 additional assessment deemed necessary by the consultant and (2)
11 the consultant and the licensed mental health practitioner jointly
12 develop a treatment plan which indicates the responsibility of each
13 professional for implementing elements of the plan, updating the
14 plan, and assessing the client's progress.

15 Sec. 2. Section 38-2115, Revised Statutes Supplement,
16 2007, is amended to read:

17 38-2115 (1) Mental health practice means the provision
18 of treatment, assessment, psychotherapy, counseling, or equivalent
19 activities to individuals, couples, families, or groups for
20 behavioral, cognitive, social, mental, or emotional disorders,
21 including interpersonal or personal situations.

22 (2) Mental health practice does not include:

23 (a) The practice of psychology or medicine;

24 (b) Prescribing drugs or electroconvulsive therapy;

25 (c) Treating physical disease, injury, or deformity;

1 (d) Diagnosing major mental illness or disorder except in
2 consultation with a qualified physician, ~~or~~ a psychologist licensed
3 to engage in the practice of psychology as provided in section
4 38-3111, or a licensed independent mental health practitioner;

5 (e) Measuring personality or intelligence for the purpose
6 of diagnosis or treatment planning;

7 (f) Using psychotherapy with individuals suspected of
8 having major mental or emotional disorders except in consultation
9 with a qualified physician, a ~~or~~ licensed psychologist, or a
10 licensed independent mental health practitioner; or

11 (g) Using psychotherapy to treat the concomitants of
12 organic illness except in consultation with a qualified physician
13 or licensed psychologist.

14 (3) Mental health practice includes the initial
15 assessment of organic mental or emotional disorders for the purpose
16 of referral or consultation.

17 (4) Nothing in sections 38-2114, 38-2118, and 38-2119
18 shall be deemed to constitute authorization to engage in activities
19 beyond those described in this section. Persons certified under the
20 Mental Health Practice Act but not licensed under section 38-2122
21 shall not engage in mental health practice.

22 Sec. 3. Section 38-2116, Revised Statutes Supplement,
23 2007, is amended to read:

24 38-2116 (1) Mental health practitioner means a person who
25 holds himself or herself out as a person qualified to engage in

1 mental health practice or a person who offers or renders mental
2 health practice services. Independent mental health practitioner
3 means a person who holds himself or herself out as a person
4 qualified to engage in independent mental health practice or a
5 person who offers or renders independent mental health practice
6 services.

7 (2) A person who is licensed as a mental health
8 practitioner ~~or an independent mental health practitioner~~ and
9 certified as a master social worker may use the title licensed
10 clinical social worker. A person who is licensed as a mental health
11 practitioner ~~or an independent mental health practitioner~~ and
12 certified as a professional counselor may use the title licensed
13 professional counselor. A person who is licensed as a mental
14 health practitioner ~~or an independent mental health practitioner~~
15 and certified as a marriage and family therapist may use the
16 title licensed marriage and family therapist. No person shall use
17 the title licensed clinical social worker, licensed professional
18 counselor, or licensed marriage and family therapist unless he or
19 she is licensed and certified as provided in this subsection.

20 (3) A person who is licensed as an independent mental
21 health practitioner and certified as a master social worker may
22 use the title licensed independent clinical social worker. A person
23 who is licensed as an independent mental health practitioner and
24 certified as a professional counselor may use the title licensed
25 independent professional counselor. A person who is licensed as an

1 independent mental health practitioner and certified as a marriage
2 and family therapist may use the title licensed independent
3 marriage and family therapist. No person shall use the title
4 licensed independent clinical social worker, licensed independent
5 professional counselor, or licensed independent marriage and family
6 therapist unless he or she is licensed and certified as provided in
7 this subsection.

8 ~~(3)~~ (4) A mental health practitioner shall not represent
9 himself or herself as a physician or psychologist and shall not
10 represent his or her services as being medical or psychological
11 in nature. An independent mental health practitioner shall not
12 represent himself or herself as a physician or psychologist.

13 Sec. 4. Section 38-2124, Revised Statutes Supplement,
14 2007, is amended to read:

15 38-2124 (1) No person shall hold himself or herself out
16 as an independent mental health practitioner unless he or she is
17 licensed as such by the department. A person shall be qualified to
18 be a licensed independent mental health practitioner if he or she:

19 (a) (i) (A) Graduated with a masters' or doctoral degree
20 from an educational program which is accredited, at the time of
21 graduation or within four years after graduation, by the Council
22 for Accreditation of Counseling and Related Educational Programs,
23 the Commission on Accreditation for Marriage and Family Therapy
24 Education, or the Council on Social Work Education or (B) graduated
25 with a masters' or doctoral degree from an educational program

1 deemed by the board to be equivalent in didactic content and
2 supervised clinical experience to an accredited program;

3 ~~(ii) Is licensed as a provisional mental health
4 practitioner or a licensed mental health practitioner; and~~

5 (ii) (A) Is licensed as a licensed mental health
6 practitioner or (B) is licensed as a provisional mental health
7 practitioner and has satisfactorily passed an examination approved
8 by the board pursuant to subdivision (3) of section 38-2122; and

9 (iii) Has three thousand hours of experience obtained
10 in a period of not less than two nor more than five years and
11 supervised by a licensed physician, a licensed psychologist, or a
12 licensed independent mental health practitioner, one-half of which
13 is comprised of experience with clients diagnosed under the major
14 mental illness or disorder category; or

15 (b) (i) Graduated from an educational program which does
16 not meet the requirements of subdivision (a) (i) of this subsection;

17 ~~(ii) Is licensed as a provisional mental health
18 practitioner or a mental health practitioner; and~~

19 (ii) (A) Is licensed as a licensed mental health
20 practitioner or (B) is licensed as a provisional mental health
21 practitioner and has satisfactorily passed an examination approved
22 by the board pursuant to subdivision (3) of section 38-2122; and

23 (iii) Has seven thousand hours of experience obtained in
24 a period of not less than ten years and supervised by a licensed
25 physician, a licensed psychologist, or a licensed independent

1 mental health practitioner, one-half of which is comprised of
2 experience with clients diagnosed under the major mental illness or
3 disorder category.

4 (2) The experience required under this section shall be
5 documented in a reasonable form and manner as prescribed by the
6 board, which may consist of sworn statements from the applicant and
7 his or her employers and supervisors. The board shall not in any
8 case require the applicant to produce individual case records.

9 (3) The application for an independent mental health
10 practitioner license shall include the applicant's social security
11 number.

12 Sec. 5. This act becomes operative on December 1, 2008.

13 Sec. 6. Original sections 38-2112, 38-2115, 38-2116, and
14 38-2124, Revised Statutes Supplement, 2007, are repealed.