

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 831**

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 23 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. Section 38-101, Revised Statutes Cumulative  
11 Supplement, 2010, is amended to read:

12           38-101 Sections 38-101 to 38-1,140 and the following  
13 practice acts shall be known and may be cited as the Uniform  
14 Credentialing Act:

- 15           (1) The Advanced Practice Registered Nurse Practice Act;
- 16           (2) The Alcohol and Drug Counseling Practice Act;
- 17           (3) The Athletic Training Practice Act;
- 18           (4) The Audiology and Speech-Language Pathology Practice  
19 Act;
- 20           (5) The Certified Nurse Midwifery Practice Act;
- 21           (6) The Certified Registered Nurse Anesthetist Practice  
22 Act;
- 23           (7) The Chiropractic Practice Act;
- 24           (8) The Clinical Nurse Specialist Practice Act;
- 25           (9) The Cosmetology, Electrology, Esthetics, Nail



1 Technology, and Body Art Practice Act;  
2 (10) The Dentistry Practice Act;  
3 (11) The Emergency Medical Services Practice Act;  
4 (12) The Environmental Health Specialists Practice Act;  
5 (13) The Funeral Directing and Embalming Practice Act;  
6 (14) The Genetic Counseling Practice Act;  
7 ~~(14)~~(15) The Hearing Instrument Specialists Practice  
8 Act;  
9 ~~(15)~~(16) The Licensed Practical Nurse-Certified Practice  
10 Act;  
11 ~~(16)~~(17) The Massage Therapy Practice Act;  
12 ~~(17)~~(18) The Medical Nutrition Therapy Practice Act;  
13 ~~(18)~~(19) The Medical Radiography Practice Act;  
14 ~~(19)~~(20) The Medicine and Surgery Practice Act;  
15 ~~(20)~~(21) The Mental Health Practice Act;  
16 ~~(21)~~(22) The Nurse Practice Act;  
17 ~~(22)~~(23) The Nurse Practitioner Practice Act;  
18 ~~(23)~~(24) The Nursing Home Administrator Practice Act;  
19 ~~(24)~~(25) The Occupational Therapy Practice Act;  
20 ~~(25)~~(26) The Optometry Practice Act;  
21 ~~(26)~~(27) The Perfusion Practice Act;  
22 ~~(27)~~(28) The Pharmacy Practice Act;  
23 ~~(28)~~(29) The Physical Therapy Practice Act;  
24 ~~(29)~~(30) The Podiatry Practice Act;  
25 ~~(30)~~(31) The Psychology Practice Act;

1                   ~~(31)~~(32) The Respiratory Care Practice Act;  
2                   ~~(32)~~(33) The Veterinary Medicine and Surgery Practice  
3 Act; and  
4                   ~~(33)~~(34) The Water Well Standards and Contractors'  
5 Practice Act.

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

9                   The Revisor of Statutes shall assign the Uniform  
10 Credentialing Act, including the practice acts enumerated in  
11 subdivisions (1) through ~~(32)~~(33) of this section, to consecutive  
12 articles within Chapter 38.

13                   Sec. 25. Section 38-121, Revised Statutes Cumulative  
14 Supplement, 2010, is amended to read:

15                   38-121 (1) No individual shall engage in the following  
16 practices unless such individual has obtained a credential under the  
17 Uniform Credentialing Act:

- 18                   (a) Acupuncture;  
19                   (b) Advanced practice nursing;  
20                   (c) Alcohol and drug counseling;  
21                   (d) Asbestos abatement, inspection, project design, and  
22 training;  
23                   (e) Athletic training;  
24                   (f) Audiology;  
25                   (g) Speech-language pathology;

- 1 (h) Body art;
- 2 (i) Chiropractic;
- 3 (j) Cosmetology;
- 4 (k) Dentistry;
- 5 (l) Dental hygiene;
- 6 (m) Electrology;
- 7 (n) Emergency medical services;
- 8 (o) Esthetics;
- 9 (p) Funeral directing and embalming;
- 10 (q) Genetic counseling;
- 11 ~~(q)~~ (r) Hearing instrument dispensing and fitting;
- 12 ~~(r)~~ (s) Lead-based paint abatement, inspection, project
- 13 design, and training;
- 14 ~~(s)~~ (t) Licensed practical nurse-certified;
- 15 ~~(t)~~ (u) Massage therapy;
- 16 ~~(u)~~ (v) Medical nutrition therapy;
- 17 ~~(v)~~ (w) Medical radiography;
- 18 ~~(w)~~ (x) Medicine and surgery;
- 19 ~~(x)~~ (y) Mental health practice;
- 20 ~~(y)~~ (z) Nail technology;
- 21 ~~(z)~~ (aa) Nursing;
- 22 ~~(aa)~~ (bb) Nursing home administration;
- 23 ~~(bb)~~ (cc) Occupational therapy;
- 24 ~~(cc)~~ (dd) Optometry;
- 25 ~~(dd)~~ (ee) Osteopathy;

1           ~~(ee)~~(ff) Perfusion;  
2           ~~(ff)~~(gg) Pharmacy;  
3           ~~(gg)~~(hh) Physical therapy;  
4           ~~(hh)~~(ii) Podiatry;  
5           ~~(ii)~~(jj) Psychology;  
6           ~~(jj)~~(kk) Radon detection, measurement, and mitigation;  
7           ~~(kk)~~(ll) Respiratory care;  
8           ~~(ll)~~(mm) Veterinary medicine and surgery;  
9           ~~(mm)~~(nn) Public water system operation; and  
10          ~~(nn)~~(oo) Constructing or decommissioning water wells and  
11 installing water well pumps and pumping equipment.

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

- 15           (a) Registered environmental health specialist;  
16           (b) Certified marriage and family therapist;  
17           (c) Certified professional counselor; or  
18           (d) Social worker.

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

- 22           (a) Body art;  
23           (b) Cosmetology;  
24           (c) Emergency medical services;  
25           (d) Esthetics;

1 (e) Funeral directing and embalming;

2 (f) Massage therapy; or

3 (g) Nail technology.

4 Sec. 26. Section 38-186, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 38-186 (1) A petition shall be filed by the Attorney  
7 General in order for the director to discipline a credential obtained  
8 under the Uniform Credentialing Act to:

9 (a) Practice or represent oneself as being certified  
10 under any of the practice acts enumerated in subdivisions (1) through  
11 ~~(17)~~(18) and ~~(19)~~(20) through ~~(31)~~(32) of section 38-101; or

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

16 (2) The petition shall be filed in the office of the  
17 director. The department may withhold a petition for discipline or a  
18 final decision from public access for a period of five days from the  
19 date of filing the petition or the date the decision is entered or  
20 until service is made, whichever is earliest.

21 (3) The proceeding shall be summary in its nature and  
22 triable as an equity action and shall be heard by the director or by  
23 a hearing officer designated by the director under rules and  
24 regulations of the department. Affidavits may be received in evidence  
25 in the discretion of the director or hearing officer. The department

1 shall have the power to administer oaths, to subpoena witnesses and  
2 compel their attendance, and to issue subpoenas duces tecum and  
3 require the production of books, accounts, and documents in the same  
4 manner and to the same extent as the district courts of the state.  
5 Depositions may be used by either party.

6           Sec. 27. Original section 38-186, Reissue Revised  
7 Statutes of Nebraska, and sections 38-101 and 38-121, Revised  
8 Statutes Cumulative Supplement, 2010, are repealed.