

AMENDMENTS TO LB449

Introduced by Walz, 15.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 38-178, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 38-178 Except as otherwise provided in sections 38-1,119 to
6 38-1,123, a credential to practice a profession may be denied, refused
7 renewal, or have other disciplinary measures taken against it in
8 accordance with section 38-185 or 38-186 on any of the following grounds:

9 (1) Misrepresentation of material facts in procuring or attempting
10 to procure a credential;

11 (2) Immoral or dishonorable conduct evidencing unfitness to practice
12 the profession in this state;

13 (3) Abuse of, dependence on, or active addiction to alcohol, any
14 controlled substance, or any mind-altering substance;

15 (4) Failure to comply with a treatment program or an aftercare
16 program, including, but not limited to, a program entered into under the
17 Licensee Assistance Program established pursuant to section 38-175;

18 (5) Conviction of (a) a misdemeanor or felony under Nebraska law or
19 federal law, or (b) a crime in any jurisdiction which, if committed
20 within this state, would have constituted a misdemeanor or felony under
21 Nebraska law and which has a rational connection with the fitness or
22 capacity of the applicant or credential holder to practice the
23 profession;

24 (6) Practice of the profession (a) fraudulently, (b) beyond its
25 authorized scope, (c) with gross incompetence or gross negligence, or (d)
26 in a pattern of incompetent or negligent conduct;

27 (7) Practice of the profession while the ability to practice is

1 impaired by alcohol, controlled substances, drugs, mind-altering
2 substances, physical disability, mental disability, or emotional
3 disability;

4 (8) Physical or mental incapacity to practice the profession as
5 evidenced by a legal judgment or a determination by other lawful means;

6 (9) Illness, deterioration, or disability that impairs the ability
7 to practice the profession;

8 (10) Permitting, aiding, or abetting the practice of a profession or
9 the performance of activities requiring a credential by a person not
10 credentialed to do so;

11 (11) Performing or offering to perform scleral tattooing as defined
12 in section 4 of this act by a person not credentialed to do so;

13 (12) ~~(11)~~ Having had his or her credential denied, refused renewal,
14 limited, suspended, revoked, or disciplined in any manner similar to
15 section 38-196 by another state or jurisdiction based upon acts by the
16 applicant or credential holder similar to acts described in this section;

17 (13) ~~(12)~~ Use of untruthful, deceptive, or misleading statements in
18 advertisements, including failure to comply with section 38-124;

19 (14) ~~(13)~~ Conviction of fraudulent or misleading advertising or
20 conviction of a violation of the Uniform Deceptive Trade Practices Act;

21 (15) ~~(14)~~ Distribution of intoxicating liquors, controlled
22 substances, or drugs for any other than lawful purposes;

23 (16) ~~(15)~~ Violations of the Uniform Credentialing Act or the rules
24 and regulations relating to the particular profession;

25 (17) ~~(16)~~ Unlawful invasion of the field of practice of any
26 profession regulated by the Uniform Credentialing Act which the
27 credential holder is not credentialed to practice;

28 (18) ~~(17)~~ Violation of the Uniform Controlled Substances Act or any
29 rules and regulations adopted pursuant to the act;

30 (19) ~~(18)~~ Failure to file a report required by section 38-1,124,
31 38-1,125, or 71-552;

1 ~~(20)~~ ~~(19)~~ Failure to maintain the requirements necessary to obtain a
2 credential;

3 ~~(21)~~ ~~(20)~~ Violation of an order issued by the department;

4 ~~(22)~~ ~~(21)~~ Violation of an assurance of compliance entered into under
5 section 38-1,108;

6 ~~(23)~~ ~~(22)~~ Failure to pay an administrative penalty;

7 ~~(24)~~ ~~(23)~~ Unprofessional conduct as defined in section 38-179; or

8 ~~(25)~~ ~~(24)~~ Violation of the Automated Medication Systems Act.

9 Sec. 2. Section 38-180, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 38-180 For purposes of subdivision ~~(12)~~ ~~(11)~~ of section 38-178, a
12 certified copy of the record of denial, refusal of renewal, limitation,
13 suspension, or revocation of a license, certificate, registration, or
14 other similar credential or the taking of other disciplinary measures
15 against it by another state or jurisdiction shall be conclusive evidence
16 of a violation.

17 Sec. 3. Section 38-1001, Revised Statutes Cumulative Supplement,
18 2018, is amended to read:

19 38-1001 Sections 38-1001 to 38-10,171 and section 4 of this act
20 shall be known and may be cited as the Cosmetology, Electrology,
21 Esthetics, Nail Technology, and Body Art Practice Act.

22 Sec. 4. (1) For purposes of this section, scleral tattooing means
23 the practice of using needles, scalpels, or other related equipment to
24 produce an indelible mark or figure on the human eye by scarring or
25 inserting a pigment on, in, or under:

26 (a) The fornix conjunctiva;

27 (b) The bulbar conjunctiva;

28 (c) The ocular conjunctiva; or

29 (d) Another ocular surface.

30 (2) Except as provided in subsection (3) of this section, a person
31 shall not perform or offer to perform scleral tattooing on another

1 person.

2 (3) This section does not apply to a person licensed to practice
3 medicine and surgery or osteopathic medicine and surgery pursuant to the
4 Uniform Credentialing Act when the licensee is performing a procedure
5 within the scope of her or his practice.

6 (4) In addition to the remedies authorized in section 38-140 or
7 38-1,124, a person who performs scleral tattooing without being
8 authorized to do so under the Uniform Credentialing Act shall be subject
9 to a civil penalty not to exceed ten thousand dollars for each violation.
10 If a violation continues after notification, this constitutes a separate
11 offense. The civil penalties shall be assessed in a civil action brought
12 for such purpose by the Attorney General in the district court of the
13 county in which the violation occurred. Any civil penalty assessed and
14 unpaid under this section shall constitute a debt to the State of
15 Nebraska which may be collected in the manner of a lien foreclosure or
16 sued for and recovered in any proper form of action in the name of the
17 State of Nebraska in the district court of the county in which the
18 violator resides or owns property. The department may also collect in
19 such action attorney's fees and costs incurred in the collection of the
20 civil penalty. The department shall, within thirty days after receipt,
21 transmit any collected civil penalty to the State Treasurer to be
22 disposed of in accordance with Article VII, section 5, of the
23 Constitution of Nebraska.

24 Sec. 5. Section 38-2894, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 38-2894 (1) A registration to practice as a pharmacy technician may
27 be denied, refused renewal, removed, or suspended or have other
28 disciplinary measures taken against it by the department, with the
29 recommendation of the board, for failure to meet the requirements of or
30 for violation of any of the provisions of subdivisions (1) through (18)
31 ~~(17)~~ and (20) ~~(19)~~ through (25) ~~(24)~~ of section 38-178 and sections

1 38-2890 to 38-2897 or the rules and regulations adopted under such
2 sections.

3 (2) If the department proposes to deny, refuse renewal of, or remove
4 or suspend a registration, it shall send the applicant or registrant a
5 notice setting forth the action to be taken and the reasons for the
6 determination. The denial, refusal to renew, removal, or suspension shall
7 become final thirty days after mailing the notice unless the applicant or
8 registrant gives written notice to the department of his or her desire
9 for an informal conference or for a formal hearing.

10 (3) Notice may be served by any method specified in section
11 25-505.01, or the department may permit substitute or constructive
12 service as provided in section 25-517.02 when service cannot be made with
13 reasonable diligence by any of the methods specified in section
14 25-505.01.

15 (4) Pharmacy technicians may participate in the Licensee Assistance
16 Program described in section 38-175.

17 Sec. 6. Original sections 38-178, 38-180, and 38-2894, Reissue
18 Revised Statutes of Nebraska, and section 38-1001, Revised Statutes
19 Cumulative Supplement, 2018, are repealed.