

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 753

Introduced by Arch, 14; Lathrop, 12.

Read first time January 05, 2022

Committee:

1 A BILL FOR AN ACT relating to the Uniform Credentialing Act; to amend
2 sections 38-178 and 38-2894, Revised Statutes Cumulative Supplement,
3 2020, and section 38-101, Revised Statutes Supplement, 2021; to
4 define terms; to require notification regarding stem cell therapy as
5 prescribed; to provide for disciplinary action; to harmonize
6 provisions; and to repeal the original sections.

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

1 Section 1. Section 38-101, Revised Statutes Supplement, 2021, is
2 amended to read:

3 38-101 Sections 38-101 to 38-1,146 and section 2 of this act and the
4 following practice acts shall be known and may be cited as the Uniform
5 Credentialing Act:

- 6 (1) The Advanced Practice Registered Nurse Practice Act;
- 7 (2) The Alcohol and Drug Counseling Practice Act;
- 8 (3) The Athletic Training Practice Act;
- 9 (4) The Audiology and Speech-Language Pathology Practice Act;
- 10 (5) The Certified Nurse Midwifery Practice Act;
- 11 (6) The Certified Registered Nurse Anesthetist Practice Act;
- 12 (7) The Chiropractic Practice Act;
- 13 (8) The Clinical Nurse Specialist Practice Act;
- 14 (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and
15 Body Art Practice Act;
- 16 (10) The Dentistry Practice Act;
- 17 (11) The Dialysis Patient Care Technician Registration Act;
- 18 (12) The Emergency Medical Services Practice Act;
- 19 (13) The Environmental Health Specialists Practice Act;
- 20 (14) The Funeral Directing and Embalming Practice Act;
- 21 (15) The Genetic Counseling Practice Act;
- 22 (16) The Hearing Instrument Specialists Practice Act;
- 23 (17) The Licensed Practical Nurse-Certified Practice Act until
24 November 1, 2017;
- 25 (18) The Massage Therapy Practice Act;
- 26 (19) The Medical Nutrition Therapy Practice Act;
- 27 (20) The Medical Radiography Practice Act;
- 28 (21) The Medicine and Surgery Practice Act;
- 29 (22) The Mental Health Practice Act;
- 30 (23) The Nurse Practice Act;
- 31 (24) The Nurse Practitioner Practice Act;

- 1 (25) The Nursing Home Administrator Practice Act;
- 2 (26) The Occupational Therapy Practice Act;
- 3 (27) The Optometry Practice Act;
- 4 (28) The Perfusion Practice Act;
- 5 (29) The Pharmacy Practice Act;
- 6 (30) The Physical Therapy Practice Act;
- 7 (31) The Podiatry Practice Act;
- 8 (32) The Psychology Practice Act;
- 9 (33) The Respiratory Care Practice Act;
- 10 (34) The Surgical First Assistant Practice Act; and
- 11 (35) The Veterinary Medicine and Surgery Practice Act.

12 If there is any conflict between any provision of sections 38-101 to
13 38-1,146 and section 2 of this act and any provision of a practice act,
14 the provision of the practice act shall prevail except as otherwise
15 specifically provided in section 38-129.02.

16 Sec. 2. (1) For purposes of this section:

17 (a) Health care practitioner means a person licensed or certified
18 under the Uniform Credentialing Act;

19 (b) Human stem cells means human cells, tissues, or cellular or
20 tissue-based products, as defined in 21 C.F.R. 1271.3 as amended August
21 31, 2016, as published in the Federal Register at 81 Fed. Reg. 60223;

22 (c) Informed written consent related to stem-cell-based therapy
23 means a signed writing executed by a patient that confirms that (i) a
24 health care practitioner has explained the treatment, (ii) the treatment
25 has not received the approval of the United States Food and Drug
26 Administration, and (iii) the patient understands that the treatment has
27 not received such approval;

28 (d) Patient means a person who is nineteen years of age or older;
29 and

30 (e) Stem-cell-based therapy means treatment using products derived
31 from human stem cells.

1 (2) Any health care practitioner who performs stem-cell-based
2 therapy shall, by informed written consent, communicate to any patient
3 seeking stem-cell-based therapy from such practitioner that it is not
4 approved by the United States Food and Drug Administration.

5 (3) This section does not apply to a health care practitioner using
6 stem-cell-based therapy for which the health care practitioner obtained
7 approval for an investigational new drug or device from the United States
8 Food and Drug Administration for use of human cells, tissues, or cellular
9 or tissue-based products.

10 (4) The department shall provide for enforcement of this section.

11 Sec. 3. Section 38-178, Revised Statutes Cumulative Supplement,
12 2020, is amended to read:

13 38-178 Except as otherwise provided in sections 38-1,119 to
14 38-1,123, a credential to practice a profession may be denied, refused
15 renewal, or have other disciplinary measures taken against it in
16 accordance with section 38-185 or 38-186 on any of the following grounds:

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

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

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

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

26 (5) Conviction of (a) a misdemeanor or felony under Nebraska law or
27 federal law, or (b) a crime in any jurisdiction which, if committed
28 within this state, would have constituted a misdemeanor or felony under
29 Nebraska law and which has a rational connection with the fitness or
30 capacity of the applicant or credential holder to practice the
31 profession;

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

4 (7) Practice of the profession while the ability to practice is
5 impaired by alcohol, controlled substances, drugs, mind-altering
6 substances, physical disability, mental disability, or emotional
7 disability;

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

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

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

15 (11) Performing or offering to perform scleral tattooing as defined
16 in section 38-10,172 by a person not credentialed to do so;

17 (12) Having had his or her credential denied, refused renewal,
18 limited, suspended, revoked, or disciplined in any manner similar to
19 section 38-196 by another state or jurisdiction based upon acts by the
20 applicant or credential holder similar to acts described in this section;

21 (13) Use of untruthful, deceptive, or misleading statements in
22 advertisements, including failure to comply with section 38-124;

23 (14) Conviction of fraudulent or misleading advertising or
24 conviction of a violation of the Uniform Deceptive Trade Practices Act;

25 (15) Distribution of intoxicating liquors, controlled substances, or
26 drugs for any other than lawful purposes;

27 (16) Violations of the Uniform Credentialing Act or the rules and
28 regulations relating to the particular profession;

29 (17) Unlawful invasion of the field of practice of any profession
30 regulated by the Uniform Credentialing Act which the credential holder is
31 not credentialed to practice;

1 (18) Violation of the Uniform Controlled Substances Act or any rules
2 and regulations adopted pursuant to the act;

3 (19) Failure to file a report required by section 38-1,124,
4 38-1,125, or 71-552;

5 (20) Failure to maintain the requirements necessary to obtain a
6 credential;

7 (21) Violation of an order issued by the department;

8 (22) Violation of an assurance of compliance entered into under
9 section 38-1,108;

10 (23) Failure to pay an administrative penalty;

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

12 (25) Violation of the Automated Medication Systems Act; or ~~or~~

13 (26) Failure to comply with section 2 of this act.

14 Sec. 4. Section 38-2894, Revised Statutes Cumulative Supplement,
15 2020, is amended to read:

16 38-2894 (1) A registration to practice as a pharmacy technician may
17 be denied, refused renewal, removed, or suspended or have other
18 disciplinary measures taken against it by the department, with the
19 recommendation of the board, for failure to meet the requirements of or
20 for violation of any of the provisions of subdivisions (1) through (18)
21 and (20) through (26) ~~(25)~~ of section 38-178 and sections 38-2890 to
22 38-2897 or the rules and regulations adopted under such sections.

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

30 (3) Notice may be served by any method specified in section
31 25-505.01, or the department may permit substitute or constructive

1 service as provided in section 25-517.02 when service cannot be made with
2 reasonable diligence by any of the methods specified in section
3 25-505.01.

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

6 Sec. 5. Original sections 38-178 and 38-2894, Revised Statutes
7 Cumulative Supplement, 2020, and section 38-101, Revised Statutes
8 Supplement, 2021, are repealed.