

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 988

Introduced by Hilgers, 21.

Read first time January 14, 2020

Committee:

1 A BILL FOR AN ACT relating to professional services; to amend section
2 21-2202, Reissue Revised Statutes of Nebraska, and section 38-101,
3 Revised Statutes Supplement, 2019; to provide restrictions on
4 business entity ownership with respect to certain professional
5 services regulated under the Uniform Credentialing Act; 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 21-2202, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 21-2202 For purposes of the Nebraska Professional Corporation Act,
4 unless the context otherwise requires:

5 (1) Certificate of registration or registration certificate from or
6 by the regulating board means either a document prepared and issued by
7 the regulating board or the electronic accessing of the regulating
8 board's licensing records by the Secretary of State;

9 (2) Professional corporation means a corporation which is organized
10 under the act for the specific purpose of rendering professional service
11 and which has as its shareholders, except as provided in section 1-162.01
12 and section 3 of this act, only individuals who themselves are duly
13 licensed or otherwise legally authorized within this state to render the
14 same professional service as the corporation;

15 (3) Professional service means any personal services rendered by an
16 attorney at law, a certified public accountant, a public accountant, a
17 dentist, an osteopathic physician, a physician and surgeon, a real estate
18 broker, an associate real estate broker, a real estate salesperson, or a
19 veterinarian. For purposes of the act, those professions pertaining to
20 the diagnosis, care, and treatment of humans shall be considered to be of
21 the same profession; and

22 (4) Regulating board means a board which is charged with the
23 licensing and regulating of the practice or profession which the
24 professional corporation is organized to render.

25 Sec. 2. Section 38-101, Revised Statutes Supplement, 2019, is
26 amended to read:

27 38-101 Sections 38-101 to 38-1,145 and section 3 of this act and the
28 following practice acts shall be known and may be cited as the Uniform
29 Credentialing Act:

30 (1) The Advanced Practice Registered Nurse Practice Act;

31 (2) The Alcohol and Drug Counseling Practice Act;

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

- 1 (32) The Psychology Practice Act;
- 2 (33) The Respiratory Care Practice Act;
- 3 (34) The Surgical First Assistant Practice Act;
- 4 (35) The Veterinary Medicine and Surgery Practice Act; and
- 5 (36) The Water Well Standards and Contractors' Practice Act.

6 If there is any conflict between any provision of sections 38-101 to
7 38-1,145 and section 3 of this act and any provision of a practice act,
8 the provision of the practice act shall prevail.

9 The Revisor of Statutes shall assign the Uniform Credentialing Act,
10 including the practice acts enumerated in subdivisions (1) through (35)
11 of this section, to articles within Chapter 38.

12 Sec. 3. (1) Notwithstanding the Nebraska Professional Corporation
13 Act, the Uniform Credentialing Act, or any other provision of law
14 inconsistent with this section, a business entity formed for the purpose
15 of rendering professional service the performance of which is subject to
16 credentialing under the Uniform Credentialing Act may have owners who are
17 persons not credentialed in a professional service regulated under the
18 Uniform Credentialing Act or persons who are credentialed in a
19 professional service regulated under the Uniform Credentialing Act other
20 than the professional service for which the business entity was formed if
21 the following conditions are met:

22 (a) Such owners shall be:

23 (i) Natural persons;

24 (ii) An employee stock ownership plan as described and defined in 26
25 U.S.C. 401(a) and 26 U.S.C. 4975(e)(7), as such sections existed on
26 January 1, 2020;

27 (iii) A partnership or limited liability company; or

28 (iv) A corporation;

29 (b) Such owners, whether direct or beneficial, who are natural
30 persons shall not exceed, in the aggregate, forty-nine percent of the
31 total number of owners of such business entity;

1 (c) Such owners shall not, in the aggregate, directly or
2 beneficially, comprise a majority of the owners of such business entity;

3 (d) Such owners shall not, in the aggregate, directly or
4 beneficially, hold one-half or more of the equity capital of such
5 business entity and possess majority voting rights of such business
6 entity;

7 (e) Such owners, whether direct or beneficial, who are natural
8 persons shall not hold themselves out as credentialed under the Uniform
9 Credentialing Act with respect to their specific area or areas of
10 professional service;

11 (f) Such owners, whether direct or beneficial, who are natural
12 persons shall not hold themselves out to the general public or to any
13 client or patient as an owner, partner, shareholder, limited liability
14 company member, director, officer, or other official of the business
15 entity except in a manner specifically permitted by the rules and
16 regulations of the department;

17 (g) Such owners, whether direct or beneficial, who are natural
18 persons shall not have ultimate responsibility for the performance of any
19 professional service regulated under the Uniform Credentialing Act;

20 (h) Such owners who are natural persons shall not (i) have been
21 convicted of any felony under the laws of any state, of the United
22 States, or of any other jurisdiction, (ii) have been convicted of any
23 crime, an element of which is dishonesty or fraud, under the laws of any
24 state, of the United States, or of any other jurisdiction, (iii) have had
25 their professional or vocational licenses, if any, suspended or revoked
26 by a licensing agency of any state of the United States or of any other
27 jurisdiction or have otherwise been the subject of other final
28 disciplinary action by any such agency, or (iv) be in violation of any
29 rule or regulation regarding character or conduct adopted and promulgated
30 by the department relating to owners who are not credentialed under the
31 Uniform Credentialing Act or who are credentialed in a professional

1 service regulated under the Uniform Credentialing Act other than the
2 professional service for which such business entity was formed; and

3 (i) Such beneficial owners under an employee stock ownership plan
4 shall be natural persons actively participating in the business of the
5 business entity or an entity controlled by the business entity. All of
6 the trustees of such employee stock ownership plans shall be natural
7 persons who are credentialed in a professional service regulated under
8 the Uniform Credentialing Act for which the business entity was formed,
9 except that in the event a conflict of interest exists for one or more
10 trustees with respect to a specific issue or transaction, such trustees
11 may appoint a special independent trustee or special fiduciary, who is
12 not credentialed under the Uniform Credentialing Act or who is
13 credentialed in a professional service regulated under the Uniform
14 Credentialing Act other than the professional service for which the
15 business entity was formed or otherwise legally authorized to render
16 professional services in the specific area or areas of professional
17 service for which the business entity was formed, which special
18 independent trustee or special fiduciary shall be authorized to make
19 decisions only with respect to the specific issue or transaction that is
20 the subject of the conflict.

21 (2) The issuance or transfer of any shares of stock or equity
22 interests in a business entity in violation of this section is void. No
23 shareholder or equity owner of a business entity shall enter into a
24 voting trust agreement or any other type of agreement vesting in another
25 person the authority to exercise the voting power of any of the stock or
26 equity of a business entity.

27 (3) The department may adopt and promulgate rules and regulations
28 for purposes of interpretation and enforcement of compliance with this
29 section.

30 Sec. 4. Original section 21-2202, Reissue Revised Statutes of
31 Nebraska, and section 38-101, Revised Statutes Supplement, 2019, are

1 repealed.