

COMMITTEE REPORT

TO: Patrick O'Donnell
Clerk of the Legislature

FROM: Senator Sara Howard
Chair, Health and Human Services Committee

DATE: 11.13.2020

RE: Health and Human Services Committee Report and Recommendations on
Regulated Occupations within Committee Jurisdiction – Provisional Licensed
Alcohol and Drug Counselor and Licensed Alcohol and Drug Counselor

GENERAL INFORMATION

- I. Occupation Regulated
 - A) Provisional Licensed Alcohol and Drug Counselor and Licensed Alcohol and Drug Counselor

- II. Name of Occupational Board Responsible for Enforcement
 - A) Board of Alcohol and Drug Counseling

- III. Public Purpose and Assumptions Underlying License Creation
 - A) Drug & Alcohol Counselors provide services to individuals with substance (drugs and/or alcohol) abuse issues, including: screening, intake, orientation, assessment, treatment planning, counseling (individual, group, and significant others), case management, crisis intervention, client education, referral, reports, record keeping, and consultation with other professionals in regard to client treatment and service. The license was created to protect the public when seeking services for substance use treatment. It ensures that the counselors providing the services have the necessary training, education, and clinical experience to provide effective and ethical services. The addiction license was created to ensure that the specialty area of addictions is treated as a unique profession because of the intricacies and need of specialized knowledge to treat this population.

- IV. Number of Regulated Professionals in Nebraska
 - A) There are a total of 1,197 Alcohol and Drug Counselors in Nebraska. There are 434 Provisional Licensed Alcohol and Drug Counselors, and 763 Licensed Alcohol and Drug Counselors.

BOARD MEMBERSHIPS AND MEETINGS

- I. Number of Members
 - A) There are nine members of the Board of Alcohol and Drug Counseling.

- II. Who Appoints Members of the Board / Is Legislative Approval Required?
 - A) The State Board of Health appoints members of the Board of Alcohol and Drug Counseling. Legislative approval is not required.

- III. Term Length
 - A) The length of term for service on the Board of Alcohol and Drug Counseling is up to two consecutive five year terms, on a rotating basis.

- IV. Qualifications for Membership of the Board
 - A) Qualifications for Membership of the Board of Alcohol and Drug Counseling may be found in Nebraska Revised Statutes Section [38-310](#). Membership on the board shall consist of seven professional members and two public members appointed pursuant to section 38-158. The members shall meet the requirements of sections 38-164 and 38-165. Three of the professional members shall be licensed alcohol and drug counselors who may also be licensed as psychologists or mental health practitioners, three of the professional members shall be licensed alcohol and drug counselors who are not licensed as psychologists or mental health practitioners, and one of the professional members shall be a psychiatrist, psychologist, or mental health practitioner.

- V. The Number of Meetings Required Per Year / Meetings Actually Held
 - A) For fiscal year (FY) 2014-2015: Meetings Required – 1; Meetings Held – 4.
 - B) For FY 2015-2016: Meetings Required – 1; Meetings Held – 4.
 - C) For FY 2016-2017: Meetings Required – 1; Meetings Held – 4.
 - D) For FY 2017-2018: Meetings Required – 1; Meetings Held – 4.
 - E) For FY 2018-2019: Meetings Required – 1; Meetings Held – 4.

- VI. Annual Budget Information for the Previous Five Years
 - A) The Board of Alcohol and Drug Counseling is cash-funded from licensure fees. Funds for credentialed occupations may come from interest earned on the Professional and Occupational Credentialing Cash Fund, certification and verification of credentials, administrative fees, reinstatement fees, general funds and federal funds, fees for miscellaneous services, gifts, and grants.
 - B) For FY 2014-2015: \$19,761
 - C) For FY 2015-2016: \$23,570
 - D) For FY 2016-2017: \$63,163

- E) For FY 2017-2018: \$60,890
- F) For FY 2018-2019: \$63,796

VII. Statement from Occupational Board on Effectiveness of Regulations

- A) The Board of Alcohol and Drug Counseling stated that they believed the regulations are effective.

AUTHORIZATION

I. Statutory Authorization

- A) Statutory authorization for the Provisional and Licensed Alcohol and Drug Counselor occupations may be found in the Nebraska Revised Statutes, sections [38-301](#) to [38-321](#), which may be cited as the Alcohol and Drug Counseling Practice Act. For text of the Nebraska statutes relating to the Provisional and Licensed Alcohol and Drug Counselor occupations, see Appendix A.

II. Other Authorization

- A) Rules and regulations regarding Registered Environmental Health Specialists may be found in the Nebraska Administrative Code [Title 172, Chapter 15](#).

CREDENTIALING

I. Number of Licenses, Certifications, or Registrations Issued In Past Five Years

- A) From January 1, 2015 to January 1, 2020, there were 482 Provisional Licensed Alcohol and Drug Counselor licenses issued and 235 Licensed Alcohol and Drug Counselor licenses issued.

II. Number of Licenses, Certifications, or Registrations Denied in Past Five Years

- A) There were seven licenses denied in the past five years.
- B) Four denials were based on conviction history and diagnosis, three were based on experience hours.

III. Number of Licenses, Certifications, or Registrations Revoked in Past Five Years

- A) There were three Provisional Licensed Alcohol and Drug Counselor licenses revoked and two Licensed Alcohol and Drug Counselor licenses revoked in the past five years.
- B) Reasons for these revocations were listed as dishonorable conduct, felony convictions, sexual abuse or misconduct, failure to safeguard a client's

dignity, substance use disorder, failure to comply with aftercare, and unprofessional conduct.

IV. Number of Licenses, Certifications, or Registrations Penalized in Past Five Years

- A) There were five licenses penalized in the past five years.
- B) The penalizations were civil penalties authorized by Nebraska Revised Statutes Sections [38-196](#) and [38-198](#).

V. Comparison of How Other States Regulate This Occupation

- A) Most state licensing requirements for alcohol and drug counselors are similar or equal to Nebraska requirements. The International Credentialing & Reciprocity Consortium website shows which credentials are offered by different states, and may be found [here](#).

VI. What Is The Potential Harm if This Occupation Is No Longer Licensed, Certified, or Regulated?

- A) The potential harm if the Provisional Licensed Alcohol and Drug Counselor or Licensed Alcohol and Drug Counselor occupations were no longer regulated would be that vulnerable people would be hurt. Counselors would not have the highly specific education and experience required to treat such a specialized area of mental health. There would be no way to monitor professionals or hold them accountable for ethical or professional violations.

COMMITTEE RECOMMENDATION ON CONTINUATION, MODIFICATION, OR TERMINATION OF OCCUPATIONAL REGULATIONS

Regulated occupations under the purview of the Health and Human Services Committee are unique in that through the Nebraska Regulation of Health Professions Act (Neb. Rev. Stat. Sections 71-6201 to 71-6229), health professions which are not licensed or regulated, or health professions that wish to change their scope of practice, go through a three-stage credentialing process.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

- 1) The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health;
- 2) The review of the State Board of Health;
- 3) The review of the Director of the Division of Public Health.

The three review bodies each create their own independent report on each proposal. All reports created by the review process are available to members of the

Health and Human Services Committee to assist them during their review of any bills that might arise from credentialing review proposals. These reports include recommendations regarding the level of licensure of the health profession. These reports are advisory to the Legislature, and only the action of the Legislature may create changes in the regulatory status of a profession. These reports represent expert input into possible public health and safety aspects of credentialing review proposals, and the nine-month process is overseen by those with experience in the provision of health-related or medical services.

The licenses, certifications, and registrations overseen by the Board of Alcohol and Drug Counseling and the Department of Health and Human Services are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Provisional Licensed Alcohol and Drug Counselor and Licensed Alcohol and Drug Counselor occupations through licensure is appropriate and balanced and does not need modification at this time.

APPENDIX A

STATUTES PERTAINING TO THE ALCOHOL AND DRUG COUNSELING PRACTICE ACT

38-301. Act, how cited.

Sections 38-301 to 38-321 shall be known and may be cited as the Alcohol and Drug Counseling Practice Act.

Source: Laws 2007, LB463, § 152.

38-302. Definitions, where found.

For purposes of the Alcohol and Drug Counseling Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-303 to 38-309 apply.

Source: Laws 2004, LB 1083, § 115; R.S.Supp.,2006, § 71-1,351; Laws 2007, LB463, § 153.

38-303. Alcohol and drug counseling, defined.

Alcohol and drug counseling means providing or performing the core functions of an alcohol and drug counselor for remuneration.

Source: Laws 2007, LB463, § 154.

38-304. Alcohol and drug counselor, defined.

Alcohol and drug counselor means a person engaged in alcohol and drug counseling.

Source: Laws 2007, LB463, § 155.

38-305. Alcohol or drug abuse, defined.

Alcohol or drug abuse means the abuse of alcohol or other drugs which have significant mood or perception changing capacities, which are likely to be physiologically or psychologically addictive, and the use of which have negative physical, social, or psychological consequences.

Source: Laws 2007, LB463, § 156.

38-306. Alcohol or drug dependence, defined.

Alcohol or drug dependence means cognitive, behavioral, and psychological symptoms indicating the continued use of alcohol or other drugs despite significant alcohol or drug-related problems.

Source: Laws 2007, LB463, § 157.

38-307. Alcohol or drug disorder, defined.

Alcohol or drug disorder means a substance-related disorder as defined by the department in rules and regulations substantially similar with the definitions of the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders.

Source: Laws 2007, LB463, § 158.

38-308. Board, defined.

Board means the Board of Alcohol and Drug Counseling.

Source: Laws 2007, LB463, § 159.

38-309. Core functions, defined.

Core functions means the following twelve activities an alcohol and drug counselor performs in the role of counselor: Screening, intake, orientation, assessment, treatment planning, counseling (individual, group, and significant others), case management, crisis intervention, client education, referral, reports and record keeping, and consultation with other professionals in regard to client treatment and services.

Source: Laws 2007, LB463, § 160.

38-310. Membership on board; qualifications.

Membership on the board shall consist of seven professional members and two public members appointed pursuant to section 38-158. The members shall meet the requirements of sections 38-164 and 38-165. Three of the professional members shall be licensed alcohol and drug counselors who may also be licensed as psychologists or mental health practitioners, three of the professional members shall be licensed alcohol and drug counselors who are not licensed as psychologists or mental health practitioners, and one of the professional members shall be a psychiatrist, psychologist, or mental health practitioner.

Source: Laws 2007, LB463, § 161.

38-311. Scope of practice.

(1) The scope of practice for alcohol and drug counseling is the application of general counseling theories and treatment methods adapted to specific addiction theory and research for the express purpose of treating any alcohol or drug abuse, dependence, or disorder. The practice of alcohol and drug counseling consists of the following performance areas which encompass the twelve core functions: Clinical evaluation; treatment planning; counseling; education; documentation; and professional and ethical standards.

(2) The performance area of clinical evaluation consists of screening and assessment of alcohol and drug problems, screening of other presenting problems for which referral may be necessary, and diagnosis of alcohol and drug disorders. Clinical evaluation does not include mental health assessment or treatment. An alcohol and drug counselor shall refer a person with co-occurring mental disorders unless such person is under the care of, or previously assessed or diagnosed by, an appropriate practitioner within a reasonable amount of time.

(3) The performance area of treatment planning consists of case management, including implementing the treatment plan, consulting, and continuing assessment and treatment planning; referral; and client advocacy.

(4) The performance area of counseling consists of individual counseling, group counseling, and family or significant other counseling.

(5) The performance area of education consists of education for clients, family of clients, and the community.

Source: Laws 2004, LB 1083, § 116; R.S.Supp.,2006, § 71-1,352; Laws 2007, LB463, § 162.

38-312. License required; exceptions.

No person shall engage in alcohol and drug counseling or hold himself or herself out as an alcohol and drug counselor unless he or she is licensed for such purpose pursuant to the Uniform Credentialing Act, except that this section shall not be construed to prevent:

(1) Qualified members of other professions who are credentialed by this state from practice of any alcohol and drug counseling consistent with the scope of practice of their respective professions;

(2) Teaching or the conduct of research related to alcohol and drug counseling with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of alcohol and drug counseling to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;

(3) The delivery of alcohol and drug counseling by:

(a) Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, alcohol and drug counseling, compulsive gambling counseling, or other health care or mental health service professions; or

(b) Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board;

(4) Duly recognized members of the clergy from providing alcohol and drug counseling in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be alcohol and drug counselors;

(5) The incidental exchange of advice or support by persons who do not represent themselves as engaging in alcohol and drug counseling, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as alcohol and drug counselors or their services as alcohol and drug counseling;

(6) Any person providing emergency crisis intervention or referral services; or

(7) Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with alcohol or drug disorders from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

Source: Laws 2004, LB 1083, § 117; R.S.Supp.,2006, § 71-1,353; Laws 2007, LB463, § 163.

38-313. License; application; provisional license

(1) A person may apply for a license as an alcohol and drug counselor if he or she meets the requirements provided in section 38-316.

(2) A person may apply for a license as a provisional alcohol and drug counselor which permits such person to practice and acquire the supervised clinical work experience required for licensure as an alcohol and drug counselor. Provisional status may be granted once and held for a time period not to exceed six years, except that if an individual does not complete the supervised clinical work experience required for licensure within the specified six-year period due to unforeseen circumstances as determined by the department, with the recommendation of the board, the individual may apply for one additional provisional license.

An individual who is so licensed shall not render services without clinical supervision. An individual who holds provisional licensure shall inform all clients that he or she holds a provisional certification and is practicing under supervision and shall identify the supervisor. An applicant shall meet the requirements provided in section 38-314.

Source: Laws 2004, LB 1083, § 118; R.S.Supp.,2006, § 71-1,354; Laws 2007, LB463, § 164.

38-314. Provisional alcohol and drug counselor; license requirements.

To be licensed to practice as a provisional alcohol and drug counselor, an applicant shall:

- (1) Have a high school diploma or its equivalent;
- (2) Have two hundred seventy hours of education related to the knowledge and skills of alcohol and drug counseling which shall include:
 - (a) A minimum of forty-five hours in counseling theories and techniques coursework;
 - (b) A minimum of forty-five hours in group counseling coursework;
 - (c) A minimum of thirty hours in human growth and development coursework;
 - (d) A minimum of fifteen hours in professional ethics and issues coursework;
 - (e) A minimum of thirty hours in alcohol and drug assessment, case planning, and management coursework;
 - (f) A minimum of thirty hours in multicultural counseling coursework;
 - (g) A minimum of forty-five hours in medical and psychosocial aspects of alcohol and drug use, abuse, and addiction coursework; and
 - (h) A minimum of thirty hours in clinical treatment issues in chemical dependency coursework; and
- (3) Have supervised practical training which shall:
 - (a) Include performing a minimum of three hundred hours in the counselor core functions in a work setting where alcohol and drug counseling is provided;
 - (b) Be a formal, systematic process that focuses on skill development and integration of knowledge;
 - (c) Include training hours documented by performance date and core function performance areas; and
 - (d) Include the performance of all counselor core functions with no single function performed less than ten hours.

Source: Laws 2004, LB 1083, § 119; R.S.Supp.,2006, § 71-1,355; Laws 2007, LB463, § 165.

38-315. Practical training supervisor; requirements; duties.

- (1)(a) The practical training supervisor for supervised practical training required under section 38-314 shall hold one of the following credentials:
 - (i) Licensure as an alcohol and drug counselor;

(ii) If the practical training is acquired outside of Nebraska, a reciprocity level alcohol and drug counselor credential issued by a member jurisdiction of the International Certification and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc., or its successor; or

(iii) Licensure as a physician or psychologist under the Uniform Credentialing Act, or an equivalent credential from another jurisdiction, and sufficient training as determined by the Board of Medicine and Surgery for physicians or the Board of Psychologists for psychologists, in consultation with the Board of Alcohol and Drug Counseling, and adopted and promulgated by the department in rules and regulations.

(b) The practical training supervisor shall not be a family member.

(c) The credential requirement of this subsection applies to the work setting supervisor and not to a practicum coordinator or instructor of a postsecondary educational institution.

(2) The practical training supervisor shall assume responsibility for the performance of the individual in training and shall be onsite at the work setting when core function activities are performed by the individual in training. A minimum of one hour of evaluative face-to-face supervision for each ten hours of core function performance shall be documented. Supervisory methods shall include, as a minimum, individual supervisory sessions, formal case staffings, and conjoint, cotherapy sessions. Supervision shall be directed towards teaching the knowledge and skills of professional alcohol and drug counseling.

Source: Laws 2004, LB 1083, § 120; Laws 2005, LB 551, § 1; R.S.Supp.,2006, § 71-1,356; Laws 2007, LB463, § 166.

38-316. Alcohol and drug counselor; license requirements.

(1) To be licensed to practice as an alcohol and drug counselor, an applicant shall meet the requirements for licensure as a provisional alcohol and drug counselor under section 38-314, shall receive a passing score on an examination approved by the board, and shall have six thousand hours of supervised clinical work experience providing alcohol and drug counseling services to alcohol and other drug clients for remuneration. The experience shall be polydrug counseling experience.

(2) The experience shall include carrying a client caseload as the primary alcohol and drug counselor performing the core functions of assessment, treatment planning, counseling, case management, referral, reports and record keeping, and consultation with other professionals for those clients. The experience shall also include responsibility for performance of the five remaining core functions although these core functions need not be performed by the applicant with each client in their caseload.

(3) Experience that shall not count towards licensure shall include, but not be limited to:

(a) Providing services to individuals who do not have a diagnosis of alcohol and drug abuse or dependence such as prevention, intervention, and codependency services or other mental health disorder counseling services, except that this shall not exclude counseling services provided to a client's significant others when provided in the context of treatment for the diagnosed alcohol or drug client; and

(b) Providing services when the experience does not include primary case responsibility for alcohol or drug treatment or does not include responsibility for the performance of all of the core functions.

(4) The maximum number of hours of experience that may be accrued are forty hours per week or two thousand hours per year.

(5)(a) A postsecondary educational degree may be substituted for part of the supervised clinical work experience. The degree shall be from a regionally accredited postsecondary educational institution or the educational program shall be accredited by a nationally recognized accreditation agency.

(b) An associate's degree in addictions or chemical dependency may be substituted for one thousand hours of supervised clinical work experience.

(c) A bachelor's degree with a major in counseling, addictions, social work, sociology, or psychology may be substituted for two thousand hours of supervised clinical work experience.

(d) A master's degree or higher in counseling, addictions, social work, sociology, or psychology may be substituted for four thousand hours of supervised clinical work experience.

(e) A substitution shall not be made for more than one degree.

Source: Laws 2004, LB 1083, § 121; R.S.Supp.,2006, § 71-1,357; Laws 2007, LB463, § 167.

38-317. Clinical supervisor; requirements; duties.

(1)(a) The clinical supervisor for supervised clinical work experience under section 38-316 shall hold one of the following credentials:

(i) Licensure as an alcohol and drug counselor;

(ii) If the clinical work is acquired outside of Nebraska, a reciprocity level alcohol and drug counselor credential issued by a member jurisdiction of the International Certification and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc., or its successor;

(iii) The highest level alcohol and drug counselor credential issued by a jurisdiction that is not a member of the International Certification and Reciprocity Consortium, Alcohol

and Other Drug Abuse, Inc., or its successor if the credential is based on education, experience, and examination that is substantially similar to the license issued in this state as determined by the board; or

(iv) Licensure as a physician or psychologist under the Uniform Credentialing Act, or an equivalent credential from another jurisdiction, and sufficient training as determined by the Board of Medicine and Surgery for physicians or the Board of Psychologists for psychologists, in consultation with the Board of Alcohol and Drug Counseling, and adopted and promulgated by the department in rules and regulations.

(b) The clinical supervisor shall be formally affiliated with the program or agency in which the work experience is gained.

(c) The clinical supervisor shall not be a family member.

(2) There shall be one hour of evaluative face-to-face clinical supervision for each forty hours of paid alcohol and drug counseling work experience. The format for supervision shall be either one-on-one or small group. Methods of supervision may include case review and discussion or direct observation of a counselor's clinical work.

Source: Laws 2004, LB 1083, § 122; Laws 2005, LB 551, § 2; R.S.Supp., 2006, § 71-1,358; Laws 2007, LB463, § 168.

38-318. Licensure; substitute requirements.

(1) An individual who is licensed as a provisional alcohol and drug counselor at the time of application for licensure as an alcohol and drug counselor is deemed to have met the requirements of a high school diploma or its equivalent, the two hundred seventy hours of education related to alcohol and drug counseling, and the supervised practical training requirement.

(2) An applicant who is licensed as a provisional mental health practitioner or a mental health practitioner at the time of application for licensure is deemed to have met the requirements of subdivisions (2)(a), (b), (c), (d), and (f) of section 38-314.

Source: Laws 2004, LB 1083, § 123; R.S.Supp., 2006, § 71-1,359; Laws 2007, LB463, § 169.

38-319. Reciprocity; military spouse; temporary license.

The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to an individual who (1) meets the requirements of the Alcohol and Drug Counseling Practice Act, (2) meets substantially equivalent requirements as determined by the department, with the recommendation of the board, or (3) holds a license or certification that is current in another jurisdiction that authorizes the applicant to provide alcohol and drug counseling, has at least two hundred seventy hours of alcohol and drug counseling education, has at least three

years of full-time alcohol and drug counseling practice following initial licensure or certification in the other jurisdiction, and has passed an alcohol and drug counseling examination. An applicant who is a military spouse may apply for a temporary license as provided in section 38-129.01.

Source: Laws 2007, LB463, § 170; Laws 2017, LB88, § 36; Laws 2018, LB1034, § 6.

38-320. Fees.

The department shall establish and collect fees for initial licensure and renewal under the Alcohol and Drug Counseling Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 171.

38-321. Rules and regulations.

The department, with the recommendation of the board, shall adopt and promulgate rules and regulations to administer the Alcohol and Drug Counseling Practice Act, including rules and regulations governing:

- (1) Ways of clearly identifying students, interns, and other persons providing alcohol and drug counseling under supervision;
- (2) The rights of persons receiving alcohol and drug counseling;
- (3) The rights of clients to gain access to their records, except that records relating to substance abuse may be withheld from a client if an alcohol and drug counselor determines, in his or her professional opinion, that release of the records to the client would not be in the best interest of the client or would pose a threat to another person, unless the release of the records is required by court order;
- (4) The contents and methods of distribution of disclosure statements to clients of alcohol and drug counselors; and
- (5) Standards of professional conduct and a code of ethics.

Source: Laws 2004, LB 1083, § 125; R.S.Supp.,2006, § 71-1,361; Laws 2007, LB463, § 172; Laws 2018, LB1034, § 7.