

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 211

Introduced by Murman, 38; Albrecht, 17; Clements, 2; Gragert, 40;
Halloran, 33; Hansen, B., 16.

Read first time January 08, 2021

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to the Uniform Credentialing Act; to amend
- 2 section 38-1708, Reissue Revised Statutes of Nebraska, and sections
- 3 38-101, 38-121, and 38-186, Revised Statutes Cumulative Supplement,
- 4 2020; to adopt the Reflexologist Registration Act; to provide an
- 5 exemption from the Massage Therapy Practice 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 38-101, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 38-101 Sections 38-101 to 38-1,145 and the following practice acts
4 shall be known and may be cited as the Uniform Credentialing Act:

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

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

7 (3) The Athletic Training Practice Act;

8 (4) The Audiology and Speech-Language Pathology Practice Act;

9 (5) The Certified Nurse Midwifery Practice Act;

10 (6) The Certified Registered Nurse Anesthetist Practice Act;

11 (7) The Chiropractic Practice Act;

12 (8) The Clinical Nurse Specialist Practice Act;

13 (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and
14 Body Art Practice Act;

15 (10) The Dentistry Practice Act;

16 (11) The Dialysis Patient Care Technician Registration Act;

17 (12) The Emergency Medical Services Practice Act;

18 (13) The Environmental Health Specialists Practice Act;

19 (14) The Funeral Directing and Embalming Practice Act;

20 (15) The Genetic Counseling Practice Act;

21 (16) The Hearing Instrument Specialists Practice Act;

22 (17) The Licensed Practical Nurse-Certified Practice Act until
23 November 1, 2017;

24 (18) The Massage Therapy Practice Act;

25 (19) The Medical Nutrition Therapy Practice Act;

26 (20) The Medical Radiography Practice Act;

27 (21) The Medicine and Surgery Practice Act;

28 (22) The Mental Health Practice Act;

29 (23) The Nurse Practice Act;

30 (24) The Nurse Practitioner Practice Act;

31 (25) The Nursing Home Administrator Practice Act;

- 1 (26) The Occupational Therapy Practice Act;
- 2 (27) The Optometry Practice Act;
- 3 (28) The Perfusion Practice Act;
- 4 (29) The Pharmacy Practice Act;
- 5 (30) The Physical Therapy Practice Act;
- 6 (31) The Podiatry Practice Act;
- 7 (32) The Psychology Practice Act;
- 8 (33) The Reflexologist Registration Act;
- 9 (34) ~~(33)~~ The Respiratory Care Practice Act;
- 10 (35) ~~(34)~~ The Surgical First Assistant Practice Act;
- 11 (36) ~~(35)~~ The Veterinary Medicine and Surgery Practice Act; and
- 12 (37) ~~(36)~~ The Water Well Standards and Contractors' Practice Act.

13 If there is any conflict between any provision of sections 38-101 to
14 38-1,145 and any provision of a practice act, the provision of the
15 practice act shall prevail.

16 The Revisor of Statutes shall assign the Uniform Credentialing Act,
17 including the practice acts enumerated in subdivisions (1) through (36)
18 ~~(35)~~ of this section, to articles within Chapter 38.

19 Sec. 2. Section 38-121, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 38-121 (1) No individual shall engage in the following practices
22 unless such individual has obtained a credential under the Uniform
23 Credentialing Act:

- 24 (a) Acupuncture;
- 25 (b) Advanced practice nursing;
- 26 (c) Alcohol and drug counseling;
- 27 (d) Asbestos abatement, inspection, project design, and training;
- 28 (e) Athletic training;
- 29 (f) Audiology;
- 30 (g) Speech-language pathology;
- 31 (h) Body art;

- 1 (i) Chiropractic;
- 2 (j) Cosmetology;
- 3 (k) Dentistry;
- 4 (l) Dental hygiene;
- 5 (m) Electrology;
- 6 (n) Emergency medical services;
- 7 (o) Esthetics;
- 8 (p) Funeral directing and embalming;
- 9 (q) Genetic counseling;
- 10 (r) Hearing instrument dispensing and fitting;
- 11 (s) Lead-based paint abatement, inspection, project design, and
- 12 training;
- 13 (t) Licensed practical nurse-certified until November 1, 2017;
- 14 (u) Massage therapy;
- 15 (v) Medical nutrition therapy;
- 16 (w) Medical radiography;
- 17 (x) Medicine and surgery;
- 18 (y) Mental health practice;
- 19 (z) Nail technology;
- 20 (aa) Nursing;
- 21 (bb) Nursing home administration;
- 22 (cc) Occupational therapy;
- 23 (dd) Optometry;
- 24 (ee) Osteopathy;
- 25 (ff) Perfusion;
- 26 (gg) Pharmacy;
- 27 (hh) Physical therapy;
- 28 (ii) Podiatry;
- 29 (jj) Psychology;
- 30 (kk) Radon detection, measurement, and mitigation;
- 31 (ll) Respiratory care;

- 1 (mm) Surgical assisting;
- 2 (nn) Veterinary medicine and surgery;
- 3 (oo) Public water system operation; and
- 4 (pp) Constructing or decommissioning water wells and installing
- 5 water well pumps and pumping equipment.

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

- 9 (a) Registered environmental health specialist;
- 10 (b) Certified marriage and family therapist;
- 11 (c) Certified professional counselor;
- 12 (d) Social worker;~~or~~
- 13 (e) Dialysis patient care technician; or ~~or~~
- 14 (f) Beginning October 1, 2021, registered reflexologist;

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

- 18 (a) Body art;
- 19 (b) Cosmetology;
- 20 (c) Emergency medical services;
- 21 (d) Esthetics;
- 22 (e) Funeral directing and embalming;
- 23 (f) Massage therapy; or
- 24 (g) Nail technology.

25 Sec. 3. Section 38-186, Revised Statutes Cumulative Supplement,
26 2020, is amended to read:

27 38-186 (1) A petition shall be filed by the Attorney General in
28 order for the director to discipline a credential obtained under the
29 Uniform Credentialing Act to:

- 30 (a) Practice or represent oneself as being certified under any of
31 the practice acts enumerated in subdivisions (1) through (19) and (21)

1 through ~~(35)~~ (36) of section 38-101; or

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

6 (2) The petition shall be filed in the office of the director. The
7 department may withhold a petition for discipline or a final decision
8 from public access for a period of five days from the date of filing the
9 petition or the date the decision is entered or until service is made,
10 whichever is earliest.

11 (3) The proceeding shall be summary in its nature and triable as an
12 equity action and shall be heard by the director or by a hearing officer
13 designated by the director under rules and regulations of the department.
14 Affidavits may be received in evidence in the discretion of the director
15 or hearing officer. The department shall have the power to administer
16 oaths, to subpoena witnesses and compel their attendance, and to issue
17 subpoenas duces tecum and require the production of books, accounts, and
18 documents in the same manner and to the same extent as the district
19 courts of the state. Depositions may be used by either party.

20 Sec. 4. Section 38-1708, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 38-1708 The Massage Therapy Practice Act shall not be construed to
23 include the following classes of persons:

24 (1) Licensed physicians and surgeons, osteopathic physicians,
25 chiropractors, registered nurses, practical nurses, cosmetologists,
26 estheticians, nail technicians, physical therapists, barbers, and other
27 persons credentialed under the Uniform Credentialing Act who are
28 exclusively engaged in the practice of their respective professions;

29 (2) Physicians who serve in the armed forces of the United States or
30 the United States Public Health Service or who are employed by the United
31 States Department of Veterans Affairs or other federal agencies, if their

1 practice is limited to that service or employment;

2 (3) Students performing massage therapy services when they render
3 such services within the scope of an approved massage therapy school
4 under the supervision of a licensed massage therapist; ~~and~~

5 (4) Individuals who hold a current license as a massage therapist in
6 another state and who travel with and provide massage therapy services to
7 theatrical groups, entertainers, or athletic organizations; ~~and -~~

8 (5) Individuals engaged in the practice of reflexology as defined in
9 section 7 of this act.

10 Sec. 5. Sections 5 to 10 of this act shall be known and may be
11 cited as the Reflexologist Registration Act.

12 Sec. 6. The purpose of the Reflexologist Registration Act is to
13 ensure the health, safety, and welfare of the public by providing for the
14 accurate, cost-effective, efficient, and safe utilization of registered
15 reflexologists in the practice of reflexology.

16 Sec. 7. For purposes of the Reflexologist Registration Act:

17 (1) Board means the Board of Massage Therapy; and

18 (2) Practice of reflexology means services which are limited to the
19 application of specific pressure, by the use of the practitioner's hands,
20 thumbs, and fingers, to the soft tissue of the hands, feet, and outer
21 ears and which are not designated or implied to be massage or massage
22 therapy.

23 Sec. 8. On and after October 1, 2021, no person shall engage in the
24 practice of reflexology for remuneration unless such person is listed in
25 the reflexologist registry created under section 9 of this act.

26 Sec. 9. The reflexologist registry is created. The department shall
27 ensure that the reflexologist registry is operational on or before
28 September 16, 2021, and shall list each reflexologist's registration on
29 the reflexologist registry. The board shall provide supervision and
30 oversight of the reflexologist registry.

31 Sec. 10. To register as a reflexologist, an individual shall file

1 an application with the department and pay the applicable fee determined
2 by the department. The department shall charge a fee which reasonably
3 covers but does not exceed the department's cost of maintaining the
4 reflexologist registry. In lieu of the requirements of sections 38-123
5 and 38-130, the application shall include the name, address, and
6 telephone number of the reflexologist, documentation of certification
7 based on successful completion by the reflexologist of the examination
8 given by the American Reflexology Certification Board or the Reflexology
9 Certification Board, and the expiration date of such certification. In
10 lieu of the requirements of section 38-145, to remain on the
11 reflexologist registry, the reflexologist shall maintain such
12 certification with the applicable board in good standing and annually
13 provide evidence of such certification to the department.

14 Sec. 11. Original section 38-1708, Reissue Revised Statutes of
15 Nebraska, and sections 38-101, 38-121, and 38-186, Revised Statutes
16 Cumulative Supplement, 2020, are repealed.