

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 452

Introduced by Hilkemann, 4.

Read first time January 20, 2015

Committee:

1 A BILL FOR AN ACT relating to the Uniform Credentialing Act; to amend
2 section 38-124, Reissue Revised Statutes of Nebraska, and section
3 38-178, Revised Statutes Cumulative Supplement, 2014; to change
4 provisions relating to advertisement by credential holders; to
5 provide for disciplinary action; and to repeal the original
6 sections.

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

1 Section 1. Section 38-124, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-124 (1) Any credential holder's advertisement for health care
4 services shall identify the type of credential or credentials held by the
5 credential holder pursuant to the definitions, titles, and abbreviations
6 authorized under the practice act applicable to his or her credential or
7 credentials or the examination designations required for a credential
8 under the practice act applicable to his or her credential or
9 credentials. The advertisement shall not include deceptive or misleading
10 information and shall not include any affirmative communication or
11 representation that misstates, falsely describes, or falsely represents
12 the skills, training, expertise, education, board certification, or
13 credential or credentials of the credential holder.

14 (2) Every person credentialed under the Uniform Credentialing Act
15 shall make his or her the person's current credential available upon
16 request. The department, with the recommendation of the appropriate
17 board, if any, shall determine how a consumer will be able to identify a
18 credential holder. The method of identification shall be clear and easily
19 accessed and used by the consumer.

20 All signs, announcements, stationery, and advertisements of persons
21 credentialed under the act shall identify the profession or business for
22 which the credential is held.

23 Sec. 2. Section 38-178, Revised Statutes Cumulative Supplement,
24 2014, is amended to read:

25 38-178 Except as otherwise provided in sections 38-1,119 to
26 38-1,123, a credential to practice a profession may be denied, refused
27 renewal, or have other disciplinary measures taken against it in
28 accordance with section 38-185 or 38-186 on any of the following grounds:

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

31 (2) Immoral or dishonorable conduct evidencing unfitness to practice

1 the profession in this state;

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

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

7 (5) Conviction of (a) a misdemeanor or felony under Nebraska law or
8 federal law, or (b) a crime in any jurisdiction which, if committed
9 within this state, would have constituted a misdemeanor or felony under
10 Nebraska law and which has a rational connection with the fitness or
11 capacity of the applicant or credential holder to practice the
12 profession;

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

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

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

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

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

27 (11) Having had his or her credential denied, refused renewal,
28 limited, suspended, revoked, or disciplined in any manner similar to
29 section 38-196 by another state or jurisdiction based upon acts by the
30 applicant or credential holder similar to acts described in this section;

31 (12) Use of untruthful, deceptive, or misleading statements in

1 advertisements, including failure to comply with section 38-124;

2 (13) Conviction of fraudulent or misleading advertising or
3 conviction of a violation of the Uniform Deceptive Trade Practices Act;

4 (14) Distribution of intoxicating liquors, controlled substances, or
5 drugs for any other than lawful purposes;

6 (15) Violations of the Uniform Credentialing Act or the rules and
7 regulations relating to the particular profession;

8 (16) Unlawful invasion of the field of practice of any profession
9 regulated by the Uniform Credentialing Act which the credential holder is
10 not credentialed to practice;

11 (17) Violation of the Uniform Controlled Substances Act or any rules
12 and regulations adopted pursuant to the act;

13 (18) Failure to file a report required by section 38-1,124,
14 38-1,125, or 71-552;

15 (19) Failure to maintain the requirements necessary to obtain a
16 credential;

17 (20) Violation of an order issued by the department;

18 (21) Violation of an assurance of compliance entered into under
19 section 38-1,108;

20 (22) Failure to pay an administrative penalty;

21 (23) Unprofessional conduct as defined in section 38-179; or

22 (24) Violation of the Automated Medication Systems Act.

23 Sec. 3. Original section 38-124, Reissue Revised Statutes of
24 Nebraska, and section 38-178, Revised Statutes Cumulative Supplement,
25 2014, are repealed.