

LEGISLATIVE BILL 452

Approved by the Governor May 29, 2015

Introduced by Hilkemann, 4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) Failure to pay an administrative penalty;

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

(24) Violation of the Automated Medication Systems Act.

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