

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 123

Introduced by Fredrickson, 20.

Read first time January 06, 2023

Committee:

- 1 A BILL FOR AN ACT relating to public health and welfare; to amend
- 2 sections 38-101, 38-121, 38-129.02, 38-131, 38-167, and 38-186,
- 3 Revised Statutes Cumulative Supplement, 2022; to adopt the Behavior
- 4 Analyst Practice Act; to harmonize provisions; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 14 of this act shall be known and may be
2 cited as the Behavior Analyst Practice Act.

3 Sec. 2. For purposes of the Behavior Analyst Practice Act, the
4 definitions found in sections 3 to 8 apply.

5 Sec. 3. Assistant behavior analyst means an individual who is
6 approved by the certifying entity as a board-certified assistant behavior
7 analyst and practices under the close, ongoing supervision of a licensed
8 behavior analyst.

9 Sec. 4. Behavior technician means a paraprofessional who practices
10 under the close, ongoing supervision of a licensed behavior analyst.

11 Sec. 5. Board means the Board of Behavior Analysts.

12 Sec. 6. Certifying entity means the Behavior Analyst Certification
13 Board or another entity designated by the Board of Behavior Analysts
14 which has programs to credential practitioners of applied behavior
15 analysis that are accredited by the National Commission on Certifying
16 Agencies or the American National Standards Institute as determined by
17 the Board of Behavior Analysts.

18 Sec. 7. Licensed behavior analyst means an individual who meets the
19 requirements specified in section 10 of this act and who is issued a
20 license under the Behavior Analyst Practice Act by the department.

21 Sec. 8. (1) Practice of applied behavior analysis means the design,
22 implementation, and evaluation of instructional and environmental
23 modifications to produce socially significant improvements in human
24 behavior.

25 (2) The practice of applied behavior analysis includes the empirical
26 identification of functional relations between behavior and environmental
27 factors, known as functional assessment and analysis.

28 (3) Applied behavior analysis interventions (a) are based on
29 scientific research and direct and indirect observation and measurement
30 of behavior and environment and (b) utilize contextual factors,
31 motivating operations, antecedent stimuli, positive reinforcement, and

1 other procedures to help individuals develop new behaviors, increase or
2 decrease existing behaviors, and emit behaviors under specific
3 environmental conditions.

4 (4) The practice of applied behavior analysis excludes diagnosis of
5 disorders, psychological testing, psychotherapy, cognitive therapy,
6 psychoanalysis, and counseling.

7 Sec. 9. The Behavior Analysis Practice Act shall not be construed
8 as prohibiting the practice of any of the following:

9 (1) A licensed psychologist in the State of Nebraska and any person
10 who delivers psychological services under the supervision of a licensed
11 psychologist, if the applied behavior analysis services are provided
12 within the scope of the licensed psychologist's education, training, and
13 competence and the licensed psychologist does not represent that the
14 psychologist is a licensed behavior analyst unless the psychologist is
15 licensed as a behavior analyst under the act;

16 (2) An individual licensed to practice any other profession in the
17 State of Nebraska and any person who delivers services under the
18 supervision of the licensed professional, if (a) applied behavior
19 analysis is stated in the Uniform Credentialing Act as being in the scope
20 of practice of the profession, (b) the applied behavior analysis services
21 provided are within the scope of the licensed professional's education,
22 training, and competence, and (c) the licensed professional does not
23 represent that the professional is a licensed behavior analyst unless the
24 professional is licensed as a behavior analyst under the act;

25 (3) A board-certified assistant behavior analyst practicing under
26 the extended authority and direction of a licensed behavior analyst who
27 is approved by the certifying entity to supervise board-certified
28 assistant behavior analysts;

29 (4) A behavior technician who delivers applied behavior analysis
30 services under the extended authority and direction of a licensed
31 behavior analyst or a board-certified assistant behavior analyst;

1 (5) A caregiver of a recipient of applied behavior analysis services
2 who delivers those services to the recipient under the extended authority
3 and direction of a licensed behavior analyst. A caregiver shall not
4 represent that the caregiver is a professional behavior analyst;

5 (6) A behavior analyst who practices with animals, including applied
6 animal behaviorists and animal trainers. Such a behavior analyst may use
7 the title "behavior analyst" but may not represent that the behavior
8 analyst is a licensed behavior analyst unless the behavior analyst is
9 licensed under the act;

10 (7) A professional who provides general applied behavior analysis
11 services to organizations, so long as those services are for the benefit
12 of the organizations and do not involve direct services to individuals.
13 Such a professional may use the title "behavior analyst" but may not
14 represent that the professional is a licensed behavior analyst unless the
15 professional is licensed under the act;

16 (8) A matriculated college or university student or postdoctoral
17 fellow whose applied behavior analysis activity is part of a defined
18 program of study, course, practicum, internship, or fellowship and is
19 directly supervised by a licensed behavior analyst licensed in Nebraska
20 or a qualified faculty member of a college or university offering a
21 program of study, course, practicum, internship or fellowship in applied
22 behavior analysis. Such student or fellow shall not represent that the
23 student or fellow is a professional behavior analyst and shall use a
24 title that clearly indicates the trainee status, such as "student,"
25 "intern," or "trainee;"

26 (9) An unlicensed individual pursuing experience in applied behavior
27 analysis consistent with the experience requirements of the certifying
28 entity, if such experience is supervised in accordance with the
29 requirements of the certifying entity;

30 (10) An individual who teaches behavior analysis or conducts
31 behavior-analytic research, if such activities do not involve the direct

1 delivery of applied behavior analysis services beyond the typical
2 parameters of applied research. Such an individual may use the title
3 "behavior analyst" but shall not represent that the individual is a
4 licensed behavior analyst unless the individual is licensed under the
5 act; and

6 (11) An individual employed by a school district performing the
7 duties for which employed. Such an individual shall not represent that
8 the individual is a licensed behavior analyst unless the individual is
9 licensed under the act, shall not offer applied behavior analysis
10 services to any person or entity other than the school which employs the
11 individual, and shall not accept remuneration for providing applied
12 behavior analysis services other than the remuneration received for the
13 duties for which employed by the school employer.

14 Sec. 10. (1) Beginning one year after the effective date of this
15 act, each applicant for licensure as a licensed behavior analyst shall
16 submit an application that includes evidence that the applicant meets the
17 requirements of the Uniform Credentialing Act for a license as a behavior
18 analyst.

19 (2) The board shall adopt rules and regulations to specify minimum
20 standards required for a license as a behavior analyst as provided in
21 section 38-126. The board may include certification by the certifying
22 entity as a board-certified behavior analyst or a board-certified
23 behavior analyst-doctoral as part of the minimum standards.

24 Sec. 11. (1) A behavior analyst who is licensed in another
25 jurisdiction or certified by the certifying entity to practice
26 independently and who provides applied behavior analysis services in the
27 State of Nebraska on a short-term basis may apply for a temporary
28 license. An applicant for a temporary license shall submit evidence that
29 the practice in Nebraska will be temporary as determined by the board
30 according to rules and regulations adopted and promulgated pursuant to
31 section 38-126. The department shall issue a temporary license under this

1 subsection only if the department verifies the applicant's licensure or
2 certification status with the relevant entity.

3 (2) An applicant for licensure under the Behavior Analyst Practice
4 Act who is a military spouse may apply for a temporary license as
5 provided in section 38-129.01.

6 Sec. 12. A behavior technician shall not represent that the
7 technician is a professional behavior analyst and shall use a title that
8 indicates the nonprofessional status, such as ABA technician, behavior
9 technician, or tutor.

10 A behavior technician shall not design assessment or intervention
11 plans or procedures but may deliver services as assigned by the
12 supervisor responsible for the technician's work as designated by the
13 licensed behavior analyst.

14 Sec. 13. The board shall adopt a code of conduct. The code of
15 conduct shall be based on the Ethics Code for Behavior Analysts adopted
16 by the certifying entity.

17 Sec. 14. The department shall establish and collect fees for
18 initial licensure and renewal under the Behavior Analyst Practice Act as
19 provided in sections 38-151 to 38-157.

20 Sec. 15. Section 38-101, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 38-101 Sections 38-101 to 38-1,147 and the following practice acts
23 shall be known and may be cited as the Uniform Credentialing Act:

- 24 (1) The Advanced Practice Registered Nurse Practice Act;
- 25 (2) The Alcohol and Drug Counseling Practice Act;
- 26 (3) The Athletic Training Practice Act;
- 27 (4) The Audiology and Speech-Language Pathology Practice Act;
- 28 (5) The Behavior Analyst Practice Act;
- 29 (6) ~~(5)~~ The Certified Nurse Midwifery Practice Act;
- 30 (7) ~~(6)~~ The Certified Registered Nurse Anesthetist Practice Act;
- 31 (8) ~~(7)~~ The Chiropractic Practice Act;

- 1 ~~(9)~~ ~~(8)~~ The Clinical Nurse Specialist Practice Act;
- 2 ~~(10)~~ ~~(9)~~ The Cosmetology, Electrology, Esthetics, Nail Technology,
- 3 and Body Art Practice Act;
- 4 ~~(11)~~ ~~(10)~~ The Dentistry Practice Act;
- 5 ~~(12)~~ ~~(11)~~ The Dialysis Patient Care Technician Registration Act;
- 6 ~~(13)~~ ~~(12)~~ The Emergency Medical Services Practice Act;
- 7 ~~(14)~~ ~~(13)~~ The Environmental Health Specialists Practice Act;
- 8 ~~(15)~~ ~~(14)~~ The Funeral Directing and Embalming Practice Act;
- 9 ~~(16)~~ ~~(15)~~ The Genetic Counseling Practice Act;
- 10 ~~(17)~~ ~~(16)~~ The Hearing Instrument Specialists Practice Act;
- 11 ~~(18)~~ ~~(17)~~ The Licensed Practical Nurse-Certified Practice Act until
- 12 November 1, 2017;
- 13 ~~(19)~~ ~~(18)~~ The Massage Therapy Practice Act;
- 14 ~~(20)~~ ~~(19)~~ The Medical Nutrition Therapy Practice Act;
- 15 ~~(21)~~ ~~(20)~~ The Medical Radiography Practice Act;
- 16 ~~(22)~~ ~~(21)~~ The Medicine and Surgery Practice Act;
- 17 ~~(23)~~ ~~(22)~~ The Mental Health Practice Act;
- 18 ~~(24)~~ ~~(23)~~ The Nurse Practice Act;
- 19 ~~(25)~~ ~~(24)~~ The Nurse Practitioner Practice Act;
- 20 ~~(26)~~ ~~(25)~~ The Nursing Home Administrator Practice Act;
- 21 ~~(27)~~ ~~(26)~~ The Occupational Therapy Practice Act;
- 22 ~~(28)~~ ~~(27)~~ The Optometry Practice Act;
- 23 ~~(29)~~ ~~(28)~~ The Perfusion Practice Act;
- 24 ~~(30)~~ ~~(29)~~ The Pharmacy Practice Act;
- 25 ~~(31)~~ ~~(30)~~ The Physical Therapy Practice Act;
- 26 ~~(32)~~ ~~(31)~~ The Podiatry Practice Act;
- 27 ~~(33)~~ ~~(32)~~ The Psychology Practice Act;
- 28 ~~(34)~~ ~~(33)~~ The Respiratory Care Practice Act;
- 29 ~~(35)~~ ~~(34)~~ The Surgical First Assistant Practice Act; and
- 30 ~~(36)~~ ~~(35)~~ The Veterinary Medicine and Surgery Practice Act.
- 31 If there is any conflict between any provision of sections 38-101 to

1 38-1,147 and any provision of a practice act, the provision of the
2 practice act shall prevail except as otherwise specifically provided in
3 section 38-129.02.

4 Sec. 16. Section 38-121, Revised Statutes Cumulative Supplement,
5 2022, is amended to read:

6 38-121 (1) No individual shall engage in the following practices
7 unless such individual has obtained a credential under the Uniform
8 Credentialing Act:

9 (a) Acupuncture;

10 (b) Advanced practice nursing;

11 (c) Alcohol and drug counseling;

12 (d) Asbestos abatement, inspection, project design, and training;

13 (e) Athletic training;

14 (f) Audiology;

15 (g) Speech-language pathology;

16 (h) Beginning one year after the effective date of this act,
17 behavior analysis;

18 (i) ~~(h)~~ Body art;

19 (j) ~~(i)~~ Chiropractic;

20 (k) ~~(j)~~ Cosmetology;

21 (l) ~~(k)~~ Dentistry;

22 (m) ~~(l)~~ Dental hygiene;

23 (n) ~~(m)~~ Electrology;

24 (o) ~~(n)~~ Emergency medical services;

25 (p) ~~(o)~~ Esthetics;

26 (q) ~~(p)~~ Funeral directing and embalming;

27 (r) ~~(q)~~ Genetic counseling;

28 (s) ~~(r)~~ Hearing instrument dispensing and fitting;

29 (t) ~~(s)~~ Lead-based paint abatement, inspection, project design, and
30 training;

31 (u) ~~(t)~~ Licensed practical nurse-certified until November 1, 2017;

- 1 ~~(v)~~ ~~(u)~~ Massage therapy;
- 2 ~~(w)~~ ~~(v)~~ Medical nutrition therapy;
- 3 ~~(x)~~ ~~(w)~~ Medical radiography;
- 4 ~~(y)~~ ~~(x)~~ Medicine and surgery;
- 5 ~~(z)~~ ~~(y)~~ Mental health practice;
- 6 ~~(aa)~~ ~~(z)~~ Nail technology;
- 7 ~~(bb)~~ ~~(aa)~~ Nursing;
- 8 ~~(cc)~~ ~~(bb)~~ Nursing home administration;
- 9 ~~(dd)~~ ~~(cc)~~ Occupational therapy;
- 10 ~~(ee)~~ ~~(dd)~~ Optometry;
- 11 ~~(ff)~~ ~~(ee)~~ Osteopathy;
- 12 ~~(gg)~~ ~~(ff)~~ Perfusion;
- 13 ~~(hh)~~ ~~(gg)~~ Pharmacy;
- 14 ~~(ii)~~ ~~(hh)~~ Physical therapy;
- 15 ~~(jj)~~ ~~(ii)~~ Podiatry;
- 16 ~~(kk)~~ ~~(jj)~~ Psychology;
- 17 ~~(ll)~~ ~~(kk)~~ Radon detection, measurement, and mitigation;
- 18 ~~(mm)~~ ~~(ll)~~ Respiratory care;
- 19 ~~(nn)~~ ~~(mm)~~ Surgical assisting; and
- 20 ~~(oo)~~ ~~(nn)~~ Veterinary medicine and surgery.

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

- 24 (a) Registered environmental health specialist;
- 25 (b) Certified marriage and family therapist;
- 26 (c) Certified professional counselor;
- 27 (d) Social worker; or
- 28 (e) Dialysis patient care technician.

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

- 1 (a) Body art;
- 2 (b) Cosmetology;
- 3 (c) Emergency medical services;
- 4 (d) Esthetics;
- 5 (e) Funeral directing and embalming;
- 6 (f) Massage therapy; or
- 7 (g) Nail technology.

8 Sec. 17. Section 38-129.02, Revised Statutes Cumulative Supplement,
9 2022, is amended to read:

10 38-129.02 (1) This section provides an additional method of issuing
11 a credential based on reciprocity and is supplemental to the methods of
12 credentialing found in the various practice acts within the Uniform
13 Credentialing Act. Any person required to be credentialed under any of
14 the various practice acts who meets the requirements of this section
15 shall be issued a credential subject to the provisions of this section.

16 (2) A person who has a credential that is current and valid in
17 another state, a territory of the United States, or the District of
18 Columbia may apply to the department for the equivalent credential under
19 the Uniform Credentialing Act. The department, with the recommendation of
20 the board with jurisdiction over the equivalent credential, shall
21 determine the appropriate level of credential for which the applicant
22 qualifies under this section. The department shall determine the
23 documentation required to comply with subsection (3) of this section. The
24 department shall issue the credential if the applicant meets the
25 requirements of subsections (3) and (4) of this section and section
26 38-129 and submits the appropriate fees for issuance of the credential,
27 including fees for a criminal background check if required for the
28 profession. A credential issued under this section shall not be valid for
29 purposes of an interstate compact or for reciprocity provisions of any
30 practice act under the Uniform Credentialing Act.

31 (3) The applicant shall provide documentation of the following:

1 (a) The credential held in the other state, territory, or District
2 of Columbia, the level of such credential, and the profession for which
3 credentialed;

4 (b) Such credential is valid and current and has been valid for at
5 least one year;

6 (c) Educational requirements;

7 (d) The minimum work experience and clinical supervision
8 requirements, if any, required for such credential and verification of
9 the applicant's completion of such requirements;

10 (e) The passage of an examination for such credential if such
11 passage is required to obtain the credential in the other jurisdiction;

12 (f) Such credential is not and has not been subject to revocation or
13 any other disciplinary action or voluntarily surrendered while the
14 applicant was under investigation for unprofessional conduct or any other
15 conduct which would be subject to section 38-178 if the conduct occurred
16 in Nebraska;

17 (g) Such credential has not been subject to disciplinary action. If
18 another jurisdiction has taken disciplinary action against the applicant
19 on any credential the applicant has held, the appropriate board under the
20 Uniform Credentialing Act shall determine if the cause for the
21 disciplinary action was corrected and the matter resolved. If the matter
22 has not been resolved, the applicant is not eligible for a credential
23 under this section until the matter is resolved; and

24 (h) Receipt of a passing score on a credentialing examination
25 specific to the laws of Nebraska if required by the appropriate board
26 under the Uniform Credentialing Act.

27 (4) An applicant who obtains a credential upon compliance with
28 subsections (2) and (3) of this section shall establish residency in
29 Nebraska within one hundred eighty days after the issuance of the
30 credential and shall provide proof of residency in a manner and within
31 the time period required by the department. The department shall

1 automatically revoke the credential of any credential holder who fails to
2 comply with this subsection.

3 (5) In addition to failure to submit the required documentation in
4 subsection (3) of this section, an applicant shall not be eligible for a
5 credential under this section if:

6 (a) The applicant had a credential revoked, subject to any other
7 disciplinary action, or voluntarily surrendered due to an investigation
8 in any jurisdiction for unprofessional conduct or any other conduct which
9 would be subject to section 38-178 if the conduct occurred in Nebraska;

10 (b) The applicant has a complaint, allegation, or investigation
11 pending before any jurisdiction that relates to unprofessional conduct or
12 any other conduct which would be subject to section 38-178 if the conduct
13 occurred in Nebraska. If the matter has not been resolved, the applicant
14 is not eligible for a credential under this section until the matter is
15 resolved; or

16 (c) The person has a disqualifying criminal history as determined by
17 the appropriate board pursuant to the Uniform Credentialing Act and rules
18 and regulations adopted and promulgated under the act.

19 (6) A person who holds a credential under this section shall be
20 subject to the Uniform Credentialing Act and other laws of this state
21 relating to the person's practice under the credential and shall be
22 subject to the jurisdiction of the appropriate board.

23 (7) This section applies to credentials for:

24 (a) Professions governed by the Advanced Practice Registered Nurse
25 Practice Act, the Behavior Analysis Practice Act, the Certified Nurse
26 Midwifery Practice Act, the Certified Registered Nurse Anesthetist
27 Practice Act, the Clinical Nurse Specialist Practice Act, the Dentistry
28 Practice Act, the Dialysis Patient Care Technician Registration Act, the
29 Emergency Medical Services Practice Act, the Medical Nutrition Therapy
30 Practice Act, the Medical Radiography Practice Act, the Nurse
31 Practitioner Practice Act, the Optometry Practice Act, the Perfusion

1 Practice Act, the Pharmacy Practice Act, the Psychology Practice Act, and
2 the Surgical First Assistant Practice Act; and

3 (b) Physician assistants and acupuncturists credentialed pursuant to
4 the Medicine and Surgery Practice Act.

5 Sec. 18. Section 38-131, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 38-131 (1) An applicant for an initial license to practice as a
8 registered nurse, a licensed practical nurse, a physical therapist, a
9 physical therapy assistant, a psychologist, an advanced emergency medical
10 technician, an emergency medical technician, an audiologist, a speech-
11 language pathologist, a licensed behavior analyst, a licensed independent
12 mental health practitioner, an occupational therapist, an occupational
13 therapy assistant, or a paramedic or to practice a profession which is
14 authorized to prescribe controlled substances shall be subject to a
15 criminal background check. A criminal background check may also be
16 required for initial licensure or reinstatement of a license governed by
17 the Uniform Credentialing Act if a criminal background check is required
18 by an interstate licensure compact. Except as provided in subsection (3)
19 of this section, the applicant shall submit with the application a full
20 set of fingerprints which shall be forwarded to the Nebraska State Patrol
21 to be submitted to the Federal Bureau of Investigation for a national
22 criminal history record information check. The applicant shall authorize
23 release of the results of the national criminal history record
24 information check to the department. The applicant shall pay the actual
25 cost of the fingerprinting and criminal background check.

26 (2) This section shall not apply to a dentist who is an applicant
27 for a dental locum tenens under section 38-1122, to a physician or
28 osteopathic physician who is an applicant for a physician locum tenens
29 under section 38-2036, or to a veterinarian who is an applicant for a
30 veterinarian locum tenens under section 38-3335.

31 (3) An applicant for a temporary educational permit as defined in

1 section 38-2019 shall have ninety days from the issuance of the permit to
2 comply with subsection (1) of this section and shall have his or her
3 permit suspended after such ninety-day period if the criminal background
4 check is not complete or revoked if the criminal background check reveals
5 that the applicant was not qualified for the permit.

6 Sec. 19. Section 38-167, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 38-167 (1) Boards shall be designated as follows:

- 9 (a) Board of Advanced Practice Registered Nurses;
10 (b) Board of Alcohol and Drug Counseling;
11 (c) Board of Athletic Training;
12 (d) Board of Audiology and Speech-Language Pathology;
13 (e) Board of Behavior Analysts;
14 (f) (e) Board of Chiropractic;
15 (g) (f) Board of Cosmetology, Electrology, Esthetics, Nail
16 Technology, and Body Art;
17 (h) (g) Board of Dentistry;
18 (i) (h) Board of Emergency Medical Services;
19 (j) (i) Board of Registered Environmental Health Specialists;
20 (k) (j) Board of Funeral Directing and Embalming;
21 (l) (k) Board of Hearing Instrument Specialists;
22 (m) (l) Board of Massage Therapy;
23 (n) (m) Board of Medical Nutrition Therapy;
24 (o) (n) Board of Medical Radiography;
25 (p) (o) Board of Medicine and Surgery;
26 (q) (p) Board of Mental Health Practice;
27 (r) (q) Board of Nursing;
28 (s) (r) Board of Nursing Home Administration;
29 (t) (s) Board of Occupational Therapy Practice;
30 (u) (t) Board of Optometry;
31 (v) (u) Board of Pharmacy;

- 1 ~~(w)~~ ~~(v)~~ Board of Physical Therapy;
- 2 ~~(x)~~ ~~(w)~~ Board of Podiatry;
- 3 ~~(y)~~ ~~(x)~~ Board of Psychology;
- 4 ~~(z)~~ ~~(y)~~ Board of Respiratory Care Practice; and
- 5 ~~(aa)~~ ~~(z)~~ Board of Veterinary Medicine and Surgery.

6 (2) Any change made by the Legislature of the names of boards listed
7 in this section shall not change the membership of such boards or affect
8 the validity of any action taken by or the status of any action pending
9 before any of such boards. Any such board newly named by the Legislature
10 shall be the direct and only successor to the board as previously named.

11 Sec. 20. Section 38-186, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

13 38-186 (1) A petition shall be filed by the Attorney General in
14 order for the director to discipline a credential obtained under the
15 Uniform Credentialing Act to:

16 (a) Practice or represent oneself as being certified under any of
17 the practice acts enumerated in section 38-101 other than subdivision
18 ~~(21) subdivisions (1) through (19) and (21) through (35)~~ of section
19 38-101; or

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

24 (2) The petition shall be filed in the office of the director. The
25 department may withhold a petition for discipline or a final decision
26 from public access for a period of five days from the date of filing the
27 petition or the date the decision is entered or until service is made,
28 whichever is earliest.

29 (3) The proceeding shall be summary in its nature and triable as an
30 equity action and shall be heard by the director or by a hearing officer
31 designated by the director under rules and regulations of the department.

1 Affidavits may be received in evidence in the discretion of the director
2 or hearing officer. The department shall have the power to administer
3 oaths, to subpoena witnesses and compel their attendance, and to issue
4 subpoenas duces tecum and require the production of books, accounts, and
5 documents in the same manner and to the same extent as the district
6 courts of the state. Depositions may be used by either party.

7 Sec. 21. Original sections 38-101, 38-121, 38-129.02, 38-131,
8 38-167, and 38-186, Revised Statutes Cumulative Supplement, 2022, are
9 repealed.