

LEGISLATIVE BILL 255

Approved by the Governor May 10, 2017

Introduced by Crawford, 45.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 38-101, 38-121, and 38-186, Reissue Revised Statutes of Nebraska, and section 71-448, Revised Statutes Cumulative Supplement, 2016; to adopt the Dialysis Patient Care Technician Registration Act; to harmonize provisions; to repeal the original sections; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 7 of this act shall be known and may be cited as the Dialysis Patient Care Technician Registration Act.

Sec. 2. The purpose of the Dialysis Patient Care Technician Registration Act is to ensure the health, safety, and welfare of the public by providing for the accurate, cost-effective, efficient, and safe utilization of dialysis patient care technicians in the administration of hemodialysis. The act applies to dialysis facilities in which hemodialysis is provided.

Sec. 3. For purposes of the Dialysis Patient Care Technician Registration Act:

(1) Dialysis patient care technician means a person who meets the requirements of section 5 of this act; and

(2) Facility means a health care facility as defined in section 71-413 providing hemodialysis services.

Sec. 4. A dialysis patient care technician may administer hemodialysis under the authority of a registered nurse licensed pursuant to the Nurse Practice Act who may delegate tasks based on nursing judgment to a dialysis patient care technician based on the technician's education, knowledge, training, and skill.

Sec. 5. The minimum requirements for a dialysis patient care technician are as follows: (1) Possession of a high school diploma or a general educational development certificate, (2) training which follows national recommendations for dialysis patient care technicians and is conducted primarily in the work setting, (3) obtaining national certification by successful passage of a certification examination within eighteen months after becoming employed as a dialysis patient care technician, and (4) recertification at intervals required by the organization providing the certification examination including no fewer than thirty and no more than forty patient contact hours since the previous certification or recertification.

Sec. 6. (1) To register as a dialysis patient care technician, an individual shall (a) possess a high school diploma or a general educational development certificate, (b) demonstrate that he or she is (i) employed as a dialysis patient care technician or (ii) enrolled in a training course as described in subdivision (2) of section 5 of this act, (c) file an application with the department, and (d) pay the applicable fee.

(2) An applicant or a dialysis patient care technician shall report to the department, in writing, any conviction for a felony or misdemeanor. A conviction is not a disqualification for placement on the registry unless it relates to the standards identified in section 5 of this act or it reflects on the moral character of the applicant or dialysis patient care technician.

(3) An applicant or a dialysis patient care technician may report any pardon or setting aside of a conviction to the department. If a pardon or setting aside has been obtained, the conviction for which it was obtained shall not be maintained on the Dialysis Patient Care Technician Registry.

(4) If a person registered as a dialysis patient care technician becomes licensed as a registered nurse or licensed practical nurse, his or her registration as a dialysis patient care technician becomes null and void as of the date of licensure as a registered nurse or a licensed practical nurse.

Sec. 7. (1) The department shall list each dialysis patient care technician registration on the Dialysis Patient Care Technician Registry. A listing in the registry shall be valid for the term of the registration and upon renewal unless such listing is refused renewal or is removed.

(2) The registry shall contain the following information on each registrant: (a) The individual's full name; (b) any conviction of a felony or misdemeanor reported to the department; (c) a certificate showing completion of a nationally recognized training program; and (d) a certificate of completion of a nationally commercially available dialysis patient care technician certification examination.

(3) Nothing in the Dialysis Patient Care Technician Registration Act shall be construed to require a dialysis patient care technician to register in the Medication Aide Registry.

Sec. 8. Section 38-101, Reissue Revised Statutes of Nebraska, is amended to read:

38-101 Sections 38-101 to 38-1,142 and the following practice acts shall be known and may be cited as the Uniform Credentialing Act:

- (1) The Advanced Practice Registered Nurse Practice Act;
- (2) The Alcohol and Drug Counseling Practice Act;

- (3) The Athletic Training Practice Act;
- (4) The Audiology and Speech-Language Pathology Practice Act;
- (5) The Certified Nurse Midwifery Practice Act;
- (6) The Certified Registered Nurse Anesthetist Practice Act;
- (7) The Chiropractic Practice Act;
- (8) The Clinical Nurse Specialist Practice Act;
- (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;
- (10) The Dentistry Practice Act;
- (11) The Dialysis Patient Care Technician Registration Act;
- ~~(12) (11) The Emergency Medical Services Practice Act;~~
- ~~(13) (12) The Environmental Health Specialists Practice Act;~~
- ~~(14) (13) The Funeral Directing and Embalming Practice Act;~~
- ~~(15) (14) The Genetic Counseling Practice Act;~~
- ~~(16) (15) The Hearing Instrument Specialists Practice Act;~~
- ~~(17) (16) The Licensed Practical Nurse-Certified Practice Act;~~
- ~~(18) (17) The Massage Therapy Practice Act;~~
- ~~(19) (18) The Medical Nutrition Therapy Practice Act;~~
- ~~(20) (19) The Medical Radiography Practice Act;~~
- ~~(21) (20) The Medicine and Surgery Practice Act;~~
- ~~(22) (21) The Mental Health Practice Act;~~
- ~~(23) (22) The Nurse Practice Act;~~
- ~~(24) (23) The Nurse Practitioner Practice Act;~~
- ~~(25) (24) The Nursing Home Administrator Practice Act;~~
- ~~(26) (25) The Occupational Therapy Practice Act;~~
- ~~(27) (26) The Optometry Practice Act;~~
- ~~(28) (27) The Perfusion Practice Act;~~
- ~~(29) (28) The Pharmacy Practice Act;~~
- ~~(30) (29) The Physical Therapy Practice Act;~~
- ~~(31) (30) The Podiatry Practice Act;~~
- ~~(32) (31) The Psychology Practice Act;~~
- ~~(33) (32) The Respiratory Care Practice Act;~~
- ~~(34) (33) The Surgical First Assistant Practice Act;~~
- ~~(35) (34) The Veterinary Medicine and Surgery Practice Act; and~~
- ~~(36) (35) The Water Well Standards and Contractors' Practice Act.~~

If there is any conflict between any provision of sections 38-101 to 38-1,139 and 38-1,141 and any provision of a practice act, the provision of the practice act shall prevail.

The Revisor of Statutes shall assign the Uniform Credentialing Act, including the practice acts enumerated in subdivisions (1) through (35) ~~(33)~~ of this section, to articles within Chapter 38.

Sec. 9. Section 38-121, Reissue Revised Statutes of Nebraska, is amended to read:

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

- (a) Acupuncture;
- (b) Advanced practice nursing;
- (c) Alcohol and drug counseling;
- (d) Asbestos abatement, inspection, project design, and training;
- (e) Athletic training;
- (f) Audiology;
- (g) Speech-language pathology;
- (h) Body art;
- (i) Chiropractic;
- (j) Cosmetology;
- (k) Dentistry;
- (l) Dental hygiene;
- (m) Electrology;
- (n) Emergency medical services;
- (o) Esthetics;
- (p) Funeral directing and embalming;
- (q) Genetic counseling;
- (r) Hearing instrument dispensing and fitting;
- (s) Lead-based paint abatement, inspection, project design, and training;
- (t) Licensed practical nurse-certified;
- (u) Massage therapy;
- (v) Medical nutrition therapy;
- (w) Medical radiography;
- (x) Medicine and surgery;
- (y) Mental health practice;
- (z) Nail technology;
- (aa) Nursing;
- (bb) Nursing home administration;
- (cc) Occupational therapy;
- (dd) Optometry;
- (ee) Osteopathy;
- (ff) Perfusion;
- (gg) Pharmacy;
- (hh) Physical therapy;
- (ii) Podiatry;
- (jj) Psychology;
- (kk) Radon detection, measurement, and mitigation;
- (ll) Respiratory care;

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

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

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

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

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

Sec. 10. Section 38-186, Reissue Revised Statutes of Nebraska, is amended to read:

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

(a) Practice or represent oneself as being certified under any of the practice acts enumerated in subdivisions (1) through (19) ~~(18)~~ and (21) ~~(20)~~ through (35) ~~(32)~~ of section 38-101; or

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

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

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

Sec. 11. Section 71-448, Revised Statutes Cumulative Supplement, 2016, is amended to read:

71-448 The Division of Public Health of the Department of Health and Human Services may take disciplinary action against a license issued under the Health Care Facility Licensure Act on any of the following grounds:

(1) Violation of any of the provisions of the Assisted-Living Facility Act, the Health Care Facility Licensure Act, the Nebraska Nursing Home Act, or the rules and regulations adopted and promulgated under such acts;

(2) Committing or permitting, aiding, or abetting the commission of any unlawful act;

(3) Conduct or practices detrimental to the health or safety of a person residing in, served by, or employed at the health care facility or health care service;

(4) A report from an accreditation body or public agency sanctioning, modifying, terminating, or withdrawing the accreditation or certification of the health care facility or health care service;

(5) Failure to allow an agent or employee of the Department of Health and Human Services access to the health care facility or health care service for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the Department of Health and Human Services;

(6) Discrimination or retaliation against a person residing in, served by, or employed at the health care facility or health care service who has submitted a complaint or information to the Department of Health and Human Services;

(7) Discrimination or retaliation against a person residing in, served by, or employed at the health care facility or health care service who has presented a grievance or information to the office of the state long-term care ombudsman;

(8) Failure to allow a state long-term care ombudsman or an ombudsman advocate access to the health care facility or health care service for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in the rules and regulations adopted and promulgated by the Department of Health and Human Services;

- (9) Violation of the Emergency Box Drug Act or the Pharmacy Practice Act;
- (10) Failure to file a report required by section 38-1,127 or 71-552;
- (11) Violation of the Medication Aide Act;
- (12) Failure to file a report of suspected abuse or neglect as required by sections 28-372 and 28-711; ~~or~~
- (13) Violation of the Automated Medication Systems Act; ~~or~~
- (14) Violation of the Dialysis Patient Care Technician Registration Act.

Sec. 12. Original sections 38-101, 38-121, and 38-186, Reissue Revised Statutes of Nebraska, and section 71-448, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 13. Since an emergency exists, this act takes effect when passed and approved according to law.