

2008

**OPERATIVE DECEMBER 1, 2008**

STATE OF NEBRASKA

STATUTES RELATING TO

# **MENTAL HEALTH PRACTICE ACT**

**MARRIAGE AND FAMILY THERAPY  
PROFESSIONAL COUNSELING  
SOCIAL WORK**



Department of Health and Human Services  
Division of Public Health  
Licensure Unit

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## INDEX

### MENTAL HEALTH PRACTICE ACT

- 38-2101. Act, how cited.
- 38-2102. Legislative findings.
- 38-2103. Definitions, where found.
- 38-2104. Approved educational program, defined.
- 38-2105. Board, defined.
- 38-2106. Certified marriage and family therapist, defined.
- 38-2107. Certified master social work, defined.
- 38-2108. Certified master social worker, defined.
- 38-2109. Certified professional counselor, defined.
- 38-2110. Certified social work, defined.
- 38-2111. Certified social worker, defined.
- 38-2112. Consultation, defined.
- 38-2113. Independent mental health practice, defined.
- 38-2114. Marriage and family therapy, defined.
- 38-2115. Mental health practice, defined; limitation on practice.
- 38-2116. Mental health practitioner, independent mental health practitioner, defined; use of titles.
- 38-2117. Mental health program, defined.
- 38-2118. Professional counseling, defined.
- 38-2119. Social work practice or the practice of social work, defined.
- 38-2120. Board; membership; qualifications.
- 38-2121. License; required; exceptions.
- 38-2122. Mental health practitioner; qualifications.
- 38-2123. Provisional mental health practitioner license; qualifications; application; expiration; disclosure required.
- 38-2124. Independent mental health practitioner; qualifications.
- 38-2125. Reciprocity.
- 38-2126. Certified social workers and certified master social workers; legislative findings.
- 38-2127. Practice of social work; certificate required; exceptions.
- 38-2128. Certified master social worker; certified social worker; qualifications.
- 38-2129. Provisional certification as master social worker; qualifications; application; expiration.
- 38-2130. Certified marriage and family therapist, certified professional counselor, social worker; reciprocity.
- 38-2131. Certified social workers; certified master social workers; act, how construed.
- 38-2132. Certified professional counselor; qualifications.
- 38-2133. Marriage and family therapist; certification; qualifications.
- 38-2134. Marriage and family therapists; act, how construed.
- 38-2135. Fees.
- 38-2136. Mental health practitioners; confidentiality; exception.
- 38-2137. Mental health practitioner; duty to warn of patient's threatened violent behavior; limitation on liability.
- 38-2138. Code of ethics; board; duties; duty to report violations.
- 38-2139. Additional grounds for disciplinary action.

### PRACTICE OF SOCIAL WORK

- 71-1,244 to 71-1,247. Repealed. Laws 1993, LB 669, §62.
- 71-1,248. Transferred to section 71-1,311.
- 71-1,249. Transferred to section 71-1,300.
- 71-1,250. Transferred to section 71-1,303.
- 71-1,251. Transferred to section 71-1,301.
- 71-1,252. Transferred to section 71-1,304.
- 71-1,253 and 71-1,254. Repealed. Laws 1993, LB 669, §62.
- 71-1,255. Transferred to section 71-1,297.
- 71-1,256. Transferred to section 71-1,318.
- 71-1,257. Repealed. Laws 1993, LB 669, §62.
- 71-1,258. Transferred to section 71-1,319.
- 71-1,259. Repealed. Laws 1993, LB 669, §62.
- 71-1,260 and 71-1,261. Transferred to sections 71-1,320 and 71-1,321.
- 71-1,262. Repealed. Laws 1993, LB 669, §62.
- 71-1,263 and 71-1,264. Transferred to sections 71-1,322 and 71-1,323.

## **PRACTICE OF PROFESSIONAL COUNSELING**

|           |                                     |
|-----------|-------------------------------------|
| 71-1,265. | Repealed. Laws 1993, LB 669, §62.   |
| 71-1,266. | Transferred to section 71-1,310.    |
| 71-1,267. | Transferred to section 71-1,324.    |
| 71-1,268. | Repealed. Laws 1993, LB 669, §62.   |
| 71-1,269. | Transferred to section 71-1,325.    |
| 71-1,270. | Transferred to section 71-1,333.    |
| 71-1,271. | Repealed. Laws 1993, LB 669, §62.   |
| 71-1,272. | Repealed. Laws 1988, LB 1100, §185. |
| 71-1,273. | Transferred to section 71-1,326.    |
| 71-1,274. | Repealed. Laws 1993, LB 669, §62.   |
| 71-1,275. | Transferred to section 71-1,327.    |
| 71-1,276. | Repealed. Laws 1988, LB 1100, §185. |
| 71-1,277. | Transferred to section 71-1,328.    |

## **MENTAL HEALTH PRACTITIONERS**

|              |  |
|--------------|--|
| 71-1,295.    | Transferred to section 38-2102.                      |
| 71-1,296.    | Transferred to section 38-2103.                      |
| 71-1,297.    | Transferred to section 38-2104.                      |
| 71-1,298.    | Transferred to section 38-2105.                      |
| 71-1,299.    | Transferred to section 38-2106.                      |
| 71-1,300.    | Transferred to section 38-2107.                      |
| 71-1,301.    | Transferred to section 38-2108.                      |
| 71-1,302.    | Transferred to section 38-2109.                      |
| 71-1,303.    | Transferred to section 38-2110.                      |
| 71-1,304.    | Transferred to section 38-2111.                      |
| 71-1,305.    | Transferred to section 38-2112.                      |
| 71-1,305.01. | Transferred to section 38-2113.                      |
| 71-1,306.    | Transferred to section 38-2114.                      |
| 71-1,307.    | Transferred to section 38-2115.                      |
| 71-1,308.    | Transferred to section 38-2116.                      |
| 71-1,309.    | Transferred to section 38-2117.                      |
| 71-1,310.    | Transferred to section 38-2118.                      |
| 71-1,311.    | Transferred to section 38-2119.                      |
| 71-1,312.    | Transferred to section 38-2121.                      |
| 71-1,313.    | Repealed. Laws 2007, LB 463, § 1319.                 |
| 71-1,314.    | Transferred to section 38-2122.                      |
| 71-1,314.01. | Transferred to section 38-2123.                      |
| 71-1,314.02. | Transferred to section 38-2124.                      |
| 71-1,315.    | Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319. |
| 71-1,316.    | Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319. |
| 71-1,317.    | Transferred to section 38-2126.                      |
| 71-1,318.    | Transferred to section 38-2127.                      |
| 71-1,319.    | Transferred to section 38-2128.                      |
| 71-1,319.01. | Transferred to section 38-2129.                      |
| 71-1,320.    | Repealed. Laws 2007, LB 463, § 1319.                 |
| 71-1,321.    | Repealed. Laws 2007, LB 463, § 1319.                 |
| 71-1,322.    | Repealed. Laws 2007, LB 463, § 1319.                 |
| 71-1,323.    | Transferred to section 38-2131.                      |
| 71-1,324.    | Repealed. Laws 2007, LB 463, § 1319.                 |
| 71-1,325.    | Transferred to section 38-2132.                      |
| 71-1,326.    | Repealed. Laws 2007, LB 463, § 1319.                 |
| 71-1,327.    | Repealed. Laws 2007, LB 463, § 1319.                 |
| 71-1,328.    | Repealed. Laws 2007, LB 463, § 1319.                 |
| 71-1,329.    | Transferred to section 38-2133.                      |
| 71-1,330.    | Repealed. Laws 2007, LB 463, § 1319.                 |
| 71-1,331.    | Repealed. Laws 2007, LB 463, § 1319.                 |
| 71-1,332.    | Transferred to section 38-2134.                      |

- 71-1,333. Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319.
- 71-1,334. Repealed. Laws 2003, LB 242, §154.
- 71-1,335. Transferred to section 38-2136.
- 71-1,336. Transferred to section 38-2137.
- 71-1,337. Transferred to section 38-2138.
- 71-1,338. Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319.

## STATUTES PERTAINING TO THE MENTAL HEALTH PRACTICE ACT

**38-2101. Act, how cited.** Sections 38-2101 to 38-2139 shall be known and may be cited as the Mental Health Practice Act.

Source: Laws 2007, LB247, § 72; Laws 2007, LB463, § 720. Operative date December 1, 2008.

**38-2102. Legislative findings.** The Legislature finds that, because many mental health practitioners are not regulated in this state, anyone may offer mental health services by using an unrestricted title and that there is no means for identifying qualified practitioners, for enforcing professional standards, or for holding such practitioners accountable for their actions. Therefor the Legislature determines that, in the interest of consumer protection and for the protection of public health, safety, and welfare, individuals should be provided a means by which they can be assured that their selection of a mental health practitioner is based on sound criteria and that the activities of those persons who by any title may offer or deliver therapeutic mental health services should be regulated.

The purpose of licensing mental health practitioners is to provide for an omnibus title for such persons and to provide for associated certification of social workers, master social workers, professional counselors, and marriage and family therapists.

Source: Laws 1993, LB 669, § 14; R.S.1943, (2003), § 71-1,295; Laws 2007, LB463, § 721. Operative date December 1, 2008.

**38-2103. Definitions, where found.** For purposes of the Mental Health Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-2104 to 38-2119 apply.

Source: Laws 1993, LB 669, § 15; R.S.1943, (2003), § 71-1,296; Laws 2007, LB247, § 38; Laws 2007, LB463, § 722. The changes made by LB 247 became operative June 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**38-2104. Approved educational program, defined.** Approved educational program means a program of education and training approved by the board. Such approval may be based on the program's accreditation by an accrediting agency or on standards established by the board in the manner and form provided in section 38-133.

Source: Laws 1986, LB 286, § 12; R.S.1943, (1990), § 71-1,255; Laws 1993, LB 669, § 16; R.S.1943, (2003), § 71-1,297; Laws 2007, LB463, § 723. Operative date December 1, 2008.

**38-2105. Board, defined.** Board means the Board of Mental Health Practice.

Source: Laws 1993, LB 669, § 17; Laws 1999, LB 828, § 148; R.S.1943, (2003), § 71-1,298; Laws 2007, LB463, § 724. Operative date December 1, 2008.

**38-2106. Certified marriage and family therapist, defined.** Certified marriage and family therapist means a person who is certified to practice marriage and family therapy pursuant to the Uniform Credentialing Act and who holds a current certificate issued by the department.

Source: Laws 1993, LB 669, § 18; R.S.1943, (2003), § 71-1,299; Laws 2007, LB463, § 725. Operative date December 1, 2008.

**38-2107. Certified master social work, defined.** Certified master social work means the specialized application of social work values, knowledge, principles, and methods in all areas of social work practice. Certified master social work may include the private, independent, and autonomous practice of social work.

Source: Laws 1986, LB 286, § 6; R.S.1943, (1990), § 71-1,249; Laws 1993, LB 669, § 19; R.S.1943, (2003), § 71-1,300; Laws 2007, LB463, § 726. Operative date December 1, 2008.

**38-2108. Certified master social worker, defined.** Certified master social worker means a person who meets the standards established in subsection (1) of section 38-2128 and who holds a current certificate issued by the department.

Source: Laws 1986, LB 286, § 8; R.S.1943, (1990), § 71-1,251; Laws 1993, LB 669, § 20; R.S.1943, (2003), § 71-1,301; Laws 2007, LB463, § 727. Operative date December 1, 2008.

**38-2109. Certified professional counselor, defined.** Certified professional counselor means a person who is certified to practice professional counseling pursuant to the Uniform Credentialing Act and who holds a current certificate issued by the department.

Source: Laws 1993, LB 669, § 21; R.S.1943, (2003), § 71-1,302; Laws 2007, LB463, § 728. Operative date December 1, 2008.

**38-2110. Certified social work, defined.** Certified social work means the professional application of social work

values, knowledge, principles, and methods in all areas of social work practice, except that certified social work shall not include private, independent, and autonomous practice of social work.

Source: Laws 1986, LB 286, § 7; R.S.1943, (1990), § 71-1,250; Laws 1993, LB 669, § 22; R.S.1943, (2003), § 71-1,303; Laws 2007, LB463, § 729. Operative date December 1, 2008.

**38-2111. Certified social worker, defined.** Certified social worker means a person who meets the standards established in subsection (2) of section 38-2128 and who holds a current certificate issued by the department.

Source: Laws 1986, LB 286, § 9; R.S.1943, (1990), § 71-1,252; Laws 1993, LB 669, § 23; R.S.1943, (2003), § 71-1,304; Laws 2007, LB463, § 730. Operative date December 1, 2008.

**38-2112. Consultation, defined.** Consultation means a professional collaborative relationship between a licensed mental health practitioner and a consultant who is a psychologist licensed to engage in the practice of psychology as provided in section 38-3111, a qualified physician, or a licensed independent mental health practitioner in which (1) the consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant and (2) the consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.

Source: Laws 1993, LB 669, § 24; Laws 1994, LB 1210, § 95; R.S.1943, (2003), § 71-1,305; Laws 2007, LB463, § 731; Laws 2008, LB1108, § 1. Operative date December 1, 2008.

**38-2113. Independent mental health practice, defined.** (1) Independent mental health practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Independent mental health practice includes diagnosing major mental illness or disorder, using psychotherapy with individuals suspected of having major mental or emotional disorders, or using psychotherapy to treat the concomitants of organic illness, with or without consultation with a qualified physician or licensed psychologist.

(3) Independent mental health practice does not include the practice of psychology or medicine, prescribing drugs or electroconvulsive therapy, treating physical disease, injury, or deformity, or measuring personality or intelligence for the purpose of diagnosis or treatment planning.

Source: Laws 2007, LB247, § 39; R.S.Supp., 2007, § 71-1,305.01. Operative date December 1, 2008.

**38-2114. Marriage and family therapy, defined.** Marriage and family therapy means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems through the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such disorders.

Source: Laws 1993, LB 669, § 25; R.S.1943, (2003), § 71-1,306; Laws 2007, LB463, § 732. Operative date December 1, 2008.

**38-2115. Mental health practice, defined; limitation on practice.** (1) Mental health practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Mental health practice does not include:

(a) The practice of psychology or medicine;

(b) Prescribing drugs or electroconvulsive therapy;

(c) Treating physical disease, injury, or deformity;

(d) Diagnosing major mental illness or disorder except in consultation with a qualified physician, a psychologist licensed to engage in the practice of psychology as provided in section 38-3111, or a licensed independent mental health practitioner;

(e) Measuring personality or intelligence for the purpose of diagnosis or treatment planning;

(f) Using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician, a licensed psychologist, or a licensed independent mental health practitioner; or

(g) Using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed psychologist.

(3) Mental health practice includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

(4) Nothing in sections 38-2114, 38-2118, and 38-2119 shall be deemed to constitute authorization to engage in activities beyond those described in this section. Persons certified under the Mental Health Practice Act but not licensed under section 38-2122 shall not engage in mental health practice.

Source: Laws 1993, LB 669, § 26; Laws 1994, LB 1210, § 96; R.S.1943, (2003), § 71-1,307; Laws 2007, LB247, § 40; Laws 2007, LB463, § 733; Laws 2008, LB1108, § 2. Operative date December 1, 2008.

**38-2116. Mental health practitioner, independent mental health practitioner, defined; use of titles.** (1) Mental health practitioner means a person who holds himself or herself out as a person qualified to engage in mental health practice or a person who offers or renders mental health practice services. Independent mental health practitioner means a person who holds himself or herself out as a person qualified to engage in independent mental health practice or a person who offers or renders independent mental health practice services.

(2) A person who is licensed as a mental health practitioner and certified as a master social worker may use the title licensed clinical social worker. A person who is licensed as a mental health practitioner and certified as a professional counselor may use the title licensed professional counselor. A person who is licensed as a mental health practitioner and certified as a marriage and family therapist may use the title licensed marriage and family therapist. No person shall use the title licensed clinical social worker, licensed professional counselor, or licensed marriage and family therapist unless he or she is licensed and certified as provided in this subsection.

(3) A person who is licensed as an independent mental health practitioner and certified as a master social worker may use the title licensed independent clinical social worker. A person who is licensed as an independent mental health practitioner and certified as a professional counselor may use the title licensed independent professional counselor. A person who is licensed as an independent mental health practitioner and certified as a marriage and family therapist may use the title licensed independent marriage and family therapist. No person shall use the title licensed independent clinical social worker, licensed independent professional counselor, or licensed independent marriage and family therapist unless he or she is licensed and certified as provided in this subsection.

(4) A mental health practitioner shall not represent himself or herself as a physician or psychologist and shall not represent his or her services as being medical or psychological in nature. An independent mental health practitioner shall not represent himself or herself as a physician or psychologist.

Source: Laws 1993, LB 669, § 27; R.S.1943, (2003), § 71-1,308; Laws 2007, LB247, § 41; Laws 2007, LB463, § 734; Laws 2008, LB1108, § 3. Operative date December 1, 2008.

**38-2117. Mental health program, defined.** Mental health program means an educational program in a field such as, but not limited to, social work, professional counseling, marriage and family therapy, human development, psychology, or family relations, the content of which contains an emphasis on therapeutic mental health and course work in psychotherapy and the assessment of mental disorders.

Source: Laws 1993, LB 669, § 28; R.S.1943, (2003), § 71-1,309; Laws 2007, LB463, § 735. Operative date December 1, 2008.

**38-2118. Professional counseling, defined.** Professional counseling means the assessment and treatment of mental and emotional disorders within the context of professional counseling theory and practice of individuals, couples, families, or groups and includes, but is not limited to:

(1) Assisting individuals or groups through the counseling relationship to develop understanding, define goals, plan action, and change behavior with the goal of reflecting interests, abilities, aptitudes, and needs as they are related to personal and social concerns, educational progress, and occupations;

(2) Appraisal activities which shall mean selecting, administering, scoring, and interpreting instruments designed to assess a person's aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, except that nothing in this subdivision shall be construed to authorize a certified professional counselor to engage in the practice of clinical psychology as defined in section 38-3111;

(3) Referral activities which evaluate data to identify which persons or groups may better be served by other specialists;

(4) Research activities which shall mean reporting, designing, conducting, or consulting on research in counseling with human subjects;

(5) Therapeutic, vocational, or personal rehabilitation in relationship to adapting to physical, emotional, or intellectual disability; and

(6) Consulting on any activity listed in this section.

Source: Laws 1986, LB 579, § 2; Laws 1988, LB 1100, § 88; R.S.1943, (1990), § 71-1,266; Laws 1993, LB 669, § 29; Laws 1994, LB 1210, § 97; R.S.1943, (2003), § 71-1,310; Laws 2007, LB463, § 736. Operative date December 1, 2008.

**38-2119. Social work practice or the practice of social work, defined.** (1) Social work practice or the practice of social work means the professional activity of helping individuals, groups, and families or larger systems such as organizations and communities to improve, restore, or enhance their capacities for personal and social functioning and the professional application of social work values, knowledge, principles, and methods in the following areas of practice:

(a) Information, resource identification and development, and referral services;

(b) Preparation and evaluation of psychosocial assessments and development of social work service plans;

(c) Case management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;

(d) Development, implementation, and evaluation of social work programs and policies;

(e) Supportive contacts to assist individuals and groups with personal adjustment to crisis, transition, economic change, or a personal or family member's health condition, especially in the area of services given in hospitals, health clinics, home health agencies, schools, shelters for the homeless, shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence, nursing homes, and correctional facilities. Nothing in this subdivision shall be construed to prevent charitable and religious organizations, the clergy, governmental agencies, hospitals, health clinics, home health agencies, schools, shelters for the homeless, shelters for the urgent care of victims of sexual assault, child abuse, elder abuse, or domestic violence, nursing homes, or correctional facilities from providing supportive contacts to assist individuals and groups with adjustment to crisis, transition, economic change, or personal or a family member's health condition if such persons or organizations do not represent themselves to be social workers;

(f) Social casework for and prevention of psychosocial dysfunction, disability, or impairment; and

(g) Social work research, consultation, and education.

(2) Social work practice does not include the following:

(a) The measuring and testing of personality or intelligence;

(b) Accepting fees or compensation for the treatment of disease, injury, or deformity of persons by drugs, surgery, or any manual or mechanical treatment whatsoever;

(c) Prescribing drugs or electroconvulsive therapy; and

(d) Treating organic diseases or major psychiatric diseases.

(3) A certified master social worker who practices within the confines of this section shall not be required to be licensed as a mental health practitioner.

Source: Laws 1986, LB 286, § 5; R.S.1943, (1990), § 71-1,248; Laws 1993, LB 669, § 30; Laws 1994, LB 1210, § 98; R.S.1943, (2003), § 71-1,311; Laws 2007, LB463, § 737. Operative date December 1, 2008.

**38-2120. Board; membership; qualifications.** The board shall consist of eight professional members and two public members appointed pursuant to section 38-158. The members shall meet the requirements of sections 38-164 and 38-165. Two professional members shall be certified master social workers, two professional members shall be certified professional counselors, two professional members shall be certified marriage and family therapists, and two professional members shall be licensed mental health practitioners that do not hold an associated certification.

Source: Laws 2007, LB463, § 738. Operative date December 1, 2008.

**38-2121. License; required; exceptions.** The requirement to be licensed as a mental health practitioner pursuant to the Uniform Credentialing Act in order to engage in mental health practice shall not be construed to prevent:

(1) Qualified members of other professions who are licensed, certified, or registered by this state from practice of any mental health activity consistent with the scope of practice of their respective professions;

(2) Alcohol and drug counselors who are licensed by the Division of Public Health of the Department of Health and Human Services and problem gambling counselors who are certified by the Department of Health and Human Services from practicing their profession. Such exclusion shall include students training and working under the supervision of an individual qualified under section 38-315;

(3) Any person employed by an agency, bureau, or division of the federal government from discharging his or her official duties, except that if such person engages in mental health practice in this state outside the scope of such official duty or represents himself or herself as a licensed mental health practitioner, he or she shall be licensed;

(4) Teaching or the conduct of research related to mental health services or consultation with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of mental health services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;

(5) The delivery of mental health services by:

(a) Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions; or

(b) Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board;

(6) Duly recognized members of the clergy from providing mental health services in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be mental health practitioners;

(7) The incidental exchange of advice or support by persons who do not represent themselves as engaging in mental health practice, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as mental health practitioners or their services as mental health practice;

(8) Any person providing emergency crisis intervention or referral services or limited services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or a psychologist licensed to engage in the practice of psychology if such persons are not represented as being licensed mental

health practitioners or their services are not represented as mental health practice; or

(9) Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with mental illness from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

Source: Laws 1993, LB 669, § 31; Laws 1994, LB 1210, § 99; Laws 1995, LB 275, § 5; Laws 1996, LB 1044, § 479; Laws 2004, LB 1083, § 114; R.S.Supp.,2006, § 71-1,312; Laws 2007, LB296, § 361; Laws 2007, LB463, § 739. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**38-2122. Mental health practitioner; qualifications.** A person shall be qualified to be a licensed mental health practitioner if he or she:

(1) Has received a master's or doctorate degree that consists of course work and training which was primarily therapeutic mental health in content and included a practicum or internship and was from an approved educational program. Practicums or internships completed after September 1, 1995, must include a minimum of three hundred clock hours of direct client contact under the supervision of a qualified physician, a licensed psychologist, or a licensed mental health practitioner;

(2) Has successfully completed three thousand hours of supervised experience in mental health practice of which fifteen hundred hours were in direct client contact in a setting where mental health services were being offered and the remaining fifteen hundred hours included, but were not limited to, review of client records, case conferences, direct observation, and video observation. For purposes of this subdivision, supervised means monitored by a qualified physician, a licensed clinical psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on September 1, 1994, for any hours completed before such date or by a qualified physician, a psychologist licensed to engage in the practice of psychology, or a licensed mental health practitioner for any hours completed after such date, including evaluative face-to-face contact for a minimum of one hour per week. Such three thousand hours shall be accumulated after completion of the master's or doctorate degree and during the five years immediately preceding the application for licensure; and

(3) Has satisfactorily passed an examination approved by the board. An individual who by reason of educational background is eligible for certification as a certified master social worker, a certified professional counselor, or a certified marriage and family therapist shall take and pass a certification examination approved by the board before becoming licensed as a mental health practitioner.

Source: Laws 1993, LB 669, § 33; Laws 1994, LB 1210, § 100; Laws 1995, LB 406, § 31; Laws 1997, LB 622, § 84; Laws 1997, LB 752, § 160; R.S.1943, (2003), § 71-1,314; Laws 2007, LB463, § 740. Operative date December 1, 2008.

**38-2123. Provisional mental health practitioner license; qualifications; application; expiration; disclosure required.** (1) A person who needs to obtain the required three thousand hours of supervised experience in mental health practice as specified in section 38-2122 to qualify for a mental health practitioner license shall obtain a provisional mental health practitioner license. To qualify for a provisional mental health practitioner license, such person shall:

(a) Have a master's or doctorate degree that consists of course work and training which was primarily therapeutic mental health in content and included a practicum or internship and was from an approved educational program as specified in such section;

(b) Apply prior to earning the three thousand hours of supervised experience; and

(c) Pay the provisional mental health practitioner license fee.

(2) A provisional mental health practitioner license shall expire upon receipt of licensure as a mental health practitioner or five years after the date of issuance, whichever comes first.

(3) A person who holds a provisional mental health practitioner license shall inform all clients that he or she holds a provisional license and is practicing mental health under supervision and shall identify the supervisor. Failure to make such disclosure is a ground for discipline as set forth in section 38-2139.

Source: Laws 1997, LB 622, § 81; Laws 2003, LB 242, § 73; R.S.1943, (2003), § 71-1,314.01; Laws 2007, LB463, § 741. Operative date December 1, 2008.

**38-2124. Independent mental health practitioner; qualifications.** (1) No person shall hold himself or herself out as an independent mental health practitioner unless he or she is licensed as such by the department. A person shall be qualified to be a licensed independent mental health practitioner if he or she:

(a)(i)(A) Graduated with a masters' or doctoral degree from an educational program which is accredited, at the time of graduation or within four years after graduation, by the Council for Accreditation of Counseling and Related Educational Programs, the Commission on Accreditation for Marriage and Family Therapy Education, or the Council on Social Work Education or (B) graduated with a masters' or doctoral degree from an educational program deemed by the board to be equivalent in didactic content and supervised clinical experience to an accredited program;

(ii)(A) Is licensed as a licensed mental health practitioner or (B) is licensed as a provisional mental health practitioner and has satisfactorily passed an examination approved by the board pursuant to subdivision (3) of section 38-2122; and

(iii) Has three thousand hours of experience obtained in a period of not less than two nor more than five years and supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category; or

(b)(i) Graduated from an educational program which does not meet the requirements of subdivision (a)(i) of this subsection;

(ii)(A) Is licensed as a licensed mental health practitioner or (B) is licensed as a provisional mental health practitioner and has satisfactorily passed an examination approved by the board pursuant to subdivision (3) of section 38-2122; and

(iii) Has seven thousand hours of experience obtained in a period of not less than ten years and supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category.

(2) The experience required under this section shall be documented in a reasonable form and manner as prescribed by the board, which may consist of sworn statements from the applicant and his or her employers and supervisors. The board shall not in any case require the applicant to produce individual case records.

(3) The application for an independent mental health practitioner license shall include the applicant's social security number.

Source: Laws 2007, LB247, § 42; R.S.Supp.,2007, § 71-1,314.02; Laws 2008, LB1108, § 4. Operative date December 1, 2008.

**38-2125. Reciprocity.** The department, with the recommendation of the board, may issue a license based on licensure in another jurisdiction to an individual who meets the licensure requirements of the Mental Health Practice Act or substantially equivalent requirements as determined by the department, with the recommendation of the board.

Source: Laws 2007, LB463, § 742. Operative date December 1, 2008.

**38-2126. Certified social workers and certified master social workers; legislative findings.** The Legislature finds that certified social workers and certified master social workers provide a wide range of psychosocial assessment, intervention, and support services that do not constitute the clinical treatment services of licensed mental health practitioners, psychologists, or physicians. The Legislature therefor finds that it is appropriate to provide for certification of social workers and master social workers.

Source: Laws 1993, LB 669, § 36; R.S.1943, (2003), § 71-1,317; Laws 2007, LB463, § 743. Operative date December 1, 2008.

**38-2127. Practice of social work; certificate required; exceptions.** The requirement to be certified as a social worker pursuant to the Uniform Credentialing Act in order to represent himself or herself as a social worker shall not be construed to prevent:

(1) Qualified members of other professions, including, but not limited to, licensed physicians, registered or licensed practical nurses, attorneys, marriage and family therapists, psychologists, psychotherapists, vocational guidance counselors, school psychologists, members of the clergy, court employees, or other persons credentialed under the Uniform Credentialing Act from doing work consistent with the scope of practice of their respective professions, except that such qualified members shall not hold themselves out to the public by title as being engaged in the practice of social work; or

(2) The activities and services of a student or intern in social work practice who is pursuing a course of study in an approved educational program if the activities and services constitute a part of his or her supervised course of study or experience for certification and are performed under the supervision of a certified master social worker and the person is identified by an appropriate title as a social work student or intern. For purposes of this subdivision, supervision means that written records of services or procedures are examined and evaluative interviews are conducted relative thereto by a certified master social worker.

Source: Laws 1986, LB 286, § 13; Laws 1987, LB 473, § 31; R.S.1943, (1990), § 71-1,256; Laws 1993, LB 669, § 37; R.S.1943, (2003), § 71-1,318; Laws 2007, LB463, § 744. Operative date December 1, 2008.

**38-2128. Certified master social worker; certified social worker; qualifications.** (1) A person shall be qualified to be a certified master social worker if he or she:

(a) Has a doctorate or a master's degree in social work from an approved educational program;

(b) Has had a minimum of at least three thousand hours of experience, in addition to the master's or doctorate degree, in social work under the supervision as defined in section 38-2127 of a certified master social worker;

(c) Provides evidence to the department that he or she meets the requirements of subdivisions (1)(a) and (1)(b) of this section; and

(d) Completes an application and satisfactorily passes an examination approved by the board.

(2) A person shall be qualified to be a certified social worker if he or she provides evidence to the board that he or she has a baccalaureate or master's degree in social work from an approved educational program and completes an application form.

Source: Laws 1986, LB 286, § 15; Laws 1988, LB 1100, § 85; Laws 1990, LB 1080, § 1; R.S.1943, (1990), § 71-1,258; Laws 1993, LB 669, § 38; Laws 1993, LB 506, § 1; Laws 1994, LB 1210, § 101; Laws 1997, LB 752, § 161;

R.S.1943, (2003), § 71-1,319; Laws 2007, LB463, § 745. Operative date December 1, 2008.

**38-2129. Provisional certification as master social worker; qualifications; application; expiration.** (1) A person who needs to obtain the required three thousand hours of supervised experience in social work as specified in section 38-2128 to qualify for certification as a master social worker shall obtain a provisional certification as a master social worker. To qualify for a provisional certification as a master social worker, such person shall:

(a) Have a doctorate or master's degree in social work from an approved educational program; and

(b) Apply prior to earning the three thousand hours of supervised experience.

(2) A provisional master social worker certification shall expire upon receipt of certification as a master social worker or five years after the date of issuance, whichever comes first.

(3) A person who holds a provisional certification as a master social worker shall inform all clients that he or she holds a provisional certification and is practicing social work under supervision and shall identify the supervisor. Failure to make such disclosure is a ground for discipline as set forth in section 38-2139.

Source: Laws 1997, LB 622, § 82; Laws 2003, LB 242, § 74; R.S.1943, (2003), § 71-1,319.01; Laws 2007, LB463, § 746. Operative date December 1, 2008.

**38-2130. Certified marriage and family therapist, certified professional counselor, social worker; reciprocity.** The department, with the recommendation of the board, may issue a certificate based on licensure in another jurisdiction to represent oneself as a certified marriage and family therapist, a certified professional counselor, or a social worker to an individual who meets the requirements of the Mental Health Practice Act relating to marriage and family therapy, professional counseling, or social work, as appropriate, or substantially equivalent requirements as determined by the department, with the recommendation of the board.

Source: Laws 2007, LB463, § 747. Operative date December 1, 2008.

**38-2131. Certified social workers; certified master social workers; act, how construed.** Nothing in the Mental Health Practice Act shall be construed to require the State of Nebraska, any agency of the State of Nebraska, or any of the entities which operate under rules and regulations of a state agency, which either employ or contract for the services of social services workers, to employ or contract with only persons certified pursuant to the act for the performance of any of the professional activities enumerated in section 38-2119.

Source: Laws 1986, LB 286, § 21; R.S.1943, (1990), § 71-1,264; Laws 1993, LB 669, § 42; R.S.1943, (2003), § 71-1,323; Laws 2007, LB463, § 748. Operative date December 1, 2008.

**38-2132. Certified professional counselor; qualifications.** A person shall be qualified to be a certified professional counselor if he or she:

(1) Has received a master's degree from an approved educational program;

(2) Has had three thousand hours of experience in professional counseling approved by the board after receipt of the master's degree; and

(3) Completes an application and satisfactorily passes an examination approved by the board.

Source: Laws 1986, LB 579, § 5; Laws 1988, LB 1100, § 91; R.S.1943, (1990), § 71-1,269; Laws 1993, LB 669, § 44; Laws 1994, LB 1210, § 104; Laws 1997, LB 752, § 162; R.S.1943, (2003), § 71-1,325; Laws 2007, LB463, § 749. Operative date December 1, 2008.

**38-2133. Marriage and family therapist; certification; qualifications.** (1) A person who applies to the department for certification as a marriage and family therapist shall be qualified for such certification if he or she:

(a) Provides evidence to the department that he or she has a master's or doctoral degree in marriage and family therapy from a program approved by the board or a graduate degree in a field determined by the board to be related to marriage and family therapy and graduate-level course work determined by the board to be equivalent to a master's degree in marriage and family therapy;

(b) Provides evidence to the department that he or she has had at least three thousand hours of experience in marriage and family therapy under a qualified supervisor following receipt of the graduate degree; and

(c) Completes an application and passes an examination approved by the board.

(2) For purposes of this section:

(a) Actively engaged in the practice of marriage and family therapy may include (i) services and activities provided under the direct supervision of a person with at least a master's degree in marriage and family therapy from a program approved by the board or (ii) services and activities that are classified by title or by description of duties and responsibilities as marriage and family therapy practice;

(b) Qualified supervisor means a licensed mental health practitioner, a psychologist licensed to engage in the practice of psychology, or a licensed physician who meets supervisory standards established by rules and regulations of the board and

the department; and

(c) Supervision means face-to-face contact between an applicant and a qualified supervisor during which the applicant appraises the supervisor of the diagnosis and treatment of each client, the clients' cases are discussed, the supervisor provides the applicant with oversight and guidance in treating and dealing with clients, and the supervisor evaluates the applicant's performance. In order for a supervised period of time to be credited toward the time of supervision required by subsection (1) of this section, it shall consist of the following:

(i) A minimum of a ratio of two hours of supervision per fifteen hours of the applicant's contact with clients;

(ii) Focus on raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings;

(iii) A process which is distinguishable from personal psychotherapy or didactic instruction; and

(iv) A proportion of individual and group supervision as determined by the rules and regulations of the board.

Source: Laws 1993, LB 669, § 48; Laws 1994, LB 1210, § 107; Laws 1997, LB 752, § 163; Laws 2000, LB 1135, § 15; Laws 2003, LB 242, § 78; R.S.1943, (2003), § 71-1,329; Laws 2007, LB463, § 750. Operative date December 1, 2008.

**38-2134. Marriage and family therapists; act, how construed.** Nothing in the Mental Health Practice Act shall be construed to require the State of Nebraska, any agency of the State of Nebraska, or any of the entities which operate under rules and regulations of a state agency, which employ or contract for the services of marriage and family therapists, to employ or contract with only persons certified pursuant to the act for the performance of any of the professional activities enumerated in section 38-2119.

Source: Laws 1993, LB 669, § 51; R.S.1943, (2003), § 71-1,332; Laws 2007, LB463, § 751. Operative date December 1, 2008.

**38-2135. Fees.** The department shall establish and collect fees for credentialing under the Mental Health Practice Act as provided in sections 38-151 to 38-157.

Source: Laws 2007, LB463, § 752. Operative date December 1, 2008.

**38-2136. Mental health practitioners; confidentiality; exception.** No person licensed or certified pursuant to the Mental Health Practice Act shall disclose any information he or she may have acquired from any person consulting him or her in his or her professional capacity except:

(1) With the written consent of the person or, in the case of death or disability, of the person's personal representative, any other person authorized to sue on behalf of the person, or the beneficiary of an insurance policy on the person's life, health, or physical condition. When more than one person in a family receives therapy conjointly, each such family member who is legally competent to execute a waiver shall agree to the waiver referred to in this subdivision. Without such a waiver from each family member legally competent to execute a waiver, a practitioner shall not disclose information received from any family member who received therapy conjointly;

(2) As such privilege is limited by the laws of the State of Nebraska or as the board may determine by rule and regulation;

(3) When the person waives the privilege by bringing charges against the licensee; or

(4) When there is a duty to warn under the limited circumstances set forth in section 38-2137.

Source: Laws 1993, LB 669, § 54; Laws 1994, LB 1210, § 109; Laws 1999, LB 828, § 150; R.S.1943, (2003), § 71-1,335; Laws 2007, LB247, § 46; Laws 2007, LB463, § 753. The changes made by LB 247 became operative June 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**38-2137. Mental health practitioner; duty to warn of patient's threatened violent behavior; limitation on liability.**

(1) There shall be no monetary liability on the part of, and no cause of action shall arise against, any person who is licensed or certified pursuant to the Mental Health Practice Act for failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except when the patient has communicated to the mental health practitioner a serious threat of physical violence against himself, herself, or a reasonably identifiable victim or victims.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior shall arise only under the limited circumstances specified in subsection (1) of this section. The duty shall be discharged by the mental health practitioner if reasonable efforts are made to communicate the threat to the victim or victims and to a law enforcement agency.

(3) No monetary liability and no cause of action shall arise under section 38-2136 against a licensee or certificate holder for information disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

Source: Laws 1993, LB 669, § 55; R.S.1943, (2003), § 71-1,336; Laws 2007, LB247, § 47; Laws 2007, LB463, § 754. The changes made by LB 247 became operative June 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**38-2138. Code of ethics; board; duties; duty to report violations.** The board shall adopt a code of ethics which is essentially in agreement with the current code of ethics of the national and state associations of the specialty professions included in mental health practice and which the board deems necessary to assure adequate protection of the public in the provision of mental health services to the public. A violation of the code of ethics shall be considered an act of unprofessional conduct.

The board shall ensure through the code of ethics and the rules and regulations adopted and promulgated under the Mental Health Practice Act that persons licensed or certified pursuant to the act limit their practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.

Intentional failure by a mental health practitioner to report known acts of unprofessional conduct by a mental health practitioner to the department or the board shall be considered an act of unprofessional conduct and shall be grounds for disciplinary action under appropriate sections of the Uniform Credentialing Act unless the mental health practitioner has acquired such knowledge in a professional relationship otherwise protected by confidentiality.

Source: Laws 1993, LB 669, § 56; Laws 1999, LB 828, § 151; R.S.1943, (2003), § 71-1,337; Laws 2007, LB247, § 48; Laws 2007, LB463, § 755. The changes made by LB 247 became operative June 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**38-2139. Additional grounds for disciplinary action.** In addition to the grounds for disciplinary action found in sections 38-178 and 38-179, a credential subject to the Mental Health Practice Act may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 38-196 when the applicant or licensee fails to disclose the information required by section 38-2123 or 38-2129.

Source: Laws 2007, LB463, § 756. Operative date December 1, 2008.

#### STATUTES PERTAINING TO THE PRACTICE OF SOCIAL WORK

**71-1,244 to 71-1,247. Repealed.** Laws 1993, LB 669, §62.

**71-1,248. Transferred** to section 71-1,311.

**71-1,249. Transferred** to section 71-1,300.

**71-1,250. Transferred** to section 71-1,303.

**71-1,251. Transferred** to section 71-1,301.

**71-1,252. Transferred** to section 71-1,304.

**71-1,253 and 71-1,254. Repealed.** Laws 1993, LB 669, §62.

**71-1,255. Transferred** to section 71-1,297.

**71-1,256. Transferred** to section 71-1,318.

**71-1,257. Repealed.** Laws 1993, LB 669, §62.

**71-1,258. Transferred** to section 71-1,319.

**71-1,259. Repealed.** Laws 1993, LB 669, §62.

**71-1,260 and 71-1,261. Transferred** to sections 71-1,320 and 1,321.

**71-1,262. Repealed.** Laws 1993, LB 669, §62.

**71-1,263 and 71-1,264. Transferred** to sections 71-1,322 and 71-1,323.

#### STATUTES PERTAINING TO THE PRACTICE OF PROFESSIONAL COUNSELING

**71-1,265. Repealed.** Laws 1993, LB 669, §62.

**71-1,266. Transferred** to section 71-1,310.

**71-1,267. Transferred** to section 71-1,324.

**71-1,268. Repealed.** Laws 1993, LB 669, §62.

**71-1,269. Transferred** to section 71-1,325.

**71-1,270. Transferred** to section 71-1,333.

**71-1,271. Repealed.** Laws 1993, LB 669, §62.

**71-1,272. Repealed.** Laws 1988, LB 1100, §185.

**71-1,273. Transferred** to section 71-1,326.

**71-1,274. Repealed.** Laws 1993, LB 669, §62.

**71-1,275. Transferred** to section 71-1,327.

**71-1,276. Repealed.** Laws 1988, LB 1100, §185.

**71-1,277. Transferred** to section 71-1,328.

## STATUTES PERTAINING TO MENTAL HEALTH PRACTITIONERS

- 71-1,295. Transferred to section 38-2102.
- 71-1,296. Transferred to section 38-2103.
- 71-1,297. Transferred to section 38-2104.
- 71-1,298. Transferred to section 38-2105.
- 71-1,299. Transferred to section 38-2106.
- 71-1,300. Transferred to section 38-2107.
- 71-1,301. Transferred to section 38-2108.
- 71-1,302. Transferred to section 38-2109.
- 71-1,303. Transferred to section 38-2110.
- 71-1,304. Transferred to section 38-2111.
- 71-1,305. Transferred to section 38-2112.
- 71-1,305.01. Transferred to section 38-2113.
- 71-1,306. Transferred to section 38-2114.
- 71-1,307. Transferred to section 38-2115.
- 71-1,308. Transferred to section 38-2116.
- 71-1,309. Transferred to section 38-2117.
- 71-1,310. Transferred to section 38-2118.
- 71-1,311. Transferred to section 38-2119.
- 71-1,312. Transferred to section 38-2121.
- 71-1,313. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,314. Transferred to section 38-2122.
- 71-1,314.01. Transferred to section 38-2123.
- 71-1,314.02. Transferred to section 38-2124.
- 71-1,315. Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319.
- 71-1,316. Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319.
- 71-1,317. Transferred to section 38-2126.
- 71-1,318. Transferred to section 38-2127.
- 71-1,319. Transferred to section 38-2128.
- 71-1,319.01. Transferred to section 38-2129.
- 71-1,320. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,321. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,322. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,323. Transferred to section 38-2131.
- 71-1,324. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,325. Transferred to section 38-2132.
- 71-1,326. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,327. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,328. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,329. Transferred to section 38-2133.
- 71-1,330. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,331. Repealed. Laws 2007, LB 463, § 1319.
- 71-1,332. Transferred to section 38-2134.
- 71-1,333. Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319.
- 71-1,334. Repealed. Laws 2003, LB 242, §154.
- 71-1,335. Transferred to section 38-2136.
- 71-1,336. Transferred to section 38-2137.
- 71-1,337. Transferred to section 38-2138.
- 71-1,338. Repealed. Laws 2007, LB 247 § 91 and LB 463, § 1319.