

AMENDMENTS TO LB123

Introduced by Fredrickson, 20.

1 1. Strike the original sections and insert the following new
2 sections:

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

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

7 Sec. 3. Behavior technician means an individual who practices under
8 the close, ongoing supervision of a licensed behavior analyst or a
9 licensed assistant behavior analyst.

10 Sec. 4. Board means the Board of Behavior Analysts.

11 Sec. 5. Certifying entity means the Behavior Analyst Certification
12 Board or another equivalent entity approved by the Board of Behavior
13 Analysts which has programs to credential practitioners of applied
14 behavior analysis that have substantially equivalent requirements as the
15 programs offered by the Behavior Analyst Certification Board as
16 determined by the Board of Behavior Analysts.

17 Sec. 6. Licensed assistant behavior analyst means an individual
18 practicing under the close ongoing supervision of a licensed behavior
19 analyst and who also meets the requirements specified in section 10 of
20 this act and is issued a license as a licensed assistant behavior analyst
21 under the Behavior Analyst Practice Act by the department.

22 Sec. 7. Licensed behavior analyst means an individual who meets the
23 requirements specified in section 10 of this act and who is issued a
24 license as a licensed behavior analyst under the Behavior Analyst
25 Practice Act by the department.

26 Sec. 8. (1) Practice of applied behavior analysis means the design,
27 implementation, and evaluation of instructional and environmental

1 modifications to produce socially significant improvements in human
2 behavior.

3 (2) Practice of applied behavior analysis includes the empirical
4 identification of functional relations between behavior and environmental
5 factors, known as functional assessment and analysis.

6 (3) Applied behavior analysis interventions (a) are based on
7 scientific research and direct and indirect observation and measurement
8 of behavior and environment and (b) utilize contextual factors,
9 motivating operations, antecedent stimuli, positive reinforcement, and
10 other procedures to help individuals develop new behaviors, increase or
11 decrease existing behaviors, and emit behaviors under specific
12 environmental conditions.

13 (4) Practice of applied behavior analysis excludes (a) diagnosis of
14 disorders, (b) psychological testing, (c) psychotherapy, (d) cognitive
15 therapy, (e) psychoanalysis, (f) counseling, (g) functional movement
16 analysis, (h) practice by persons required to be credentialed under the
17 Audiology and Speech-Language Pathology Practice Act in the diagnosis or
18 treatment of hearing, speech, communication, or swallowing disorders, or
19 (i) practice by persons required to be credentialed under the
20 Occupational Therapy Practice Act in the treatment of occupational
21 performance dysfunction, such as activities of daily living and
22 instrumental activities of daily living.

23 Sec. 9. The Behavior Analyst Practice Act shall not be construed as
24 prohibiting the practice of any of the following:

25 (1) A licensed psychologist in the State of Nebraska and any person
26 who delivers psychological services under the supervision of a licensed
27 psychologist, if the applied behavior analysis services are provided
28 within the scope of the licensed psychologist's education, training, and
29 competence and the licensed psychologist does not represent that the
30 psychologist is a licensed behavior analyst unless the psychologist is
31 licensed as a behavior analyst under the act;

1 (2) An individual licensed to practice any other profession in the
2 State of Nebraska and any person who delivers services under the
3 supervision of the licensed professional, if (a) applied behavior
4 analysis is stated in the Uniform Credentialing Act as being in the scope
5 of practice of the profession, (b) the applied behavior analysis services
6 provided are within the scope of the licensed professional's education,
7 training, and competence, and (c) the licensed professional does not
8 represent that the professional is a licensed behavior analyst unless the
9 professional is licensed as a behavior analyst under the act;

10 (3) A behavior technician who delivers applied behavior analysis
11 services under the extended authority and direction of a licensed
12 behavior analyst or a licensed assistant behavior analyst;

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

17 (5) A behavior analyst who practices with animals, including applied
18 animal behaviorists and animal trainers. Such a behavior analyst may use
19 the title "behavior analyst" but may not represent that the behavior
20 analyst is a licensed behavior analyst unless the behavior analyst is
21 licensed under the act;

22 (6) A professional who provides general applied behavior analysis
23 services to organizations, so long as those services are for the benefit
24 of the organizations and do not involve direct services to individuals.
25 Such a professional may use the title "behavior analyst" but may not
26 represent that the professional is a licensed behavior analyst unless the
27 professional is licensed under the act;

28 (7) A matriculated college or university student or postdoctoral
29 fellow whose applied behavior analysis activity is part of a defined
30 program of study, course, practicum, internship, or fellowship and is
31 directly supervised by a licensed behavior analyst licensed in Nebraska

1 or a qualified faculty member of a college or university offering a
2 program of study, course, practicum, internship or fellowship in applied
3 behavior analysis. Such student or fellow shall not represent that the
4 student or fellow is a professional behavior analyst and shall use a
5 title that clearly indicates the trainee status, such as student, intern,
6 or trainee;

7 (8) An unlicensed individual pursuing experience in applied behavior
8 analysis consistent with the experience requirements of the certifying
9 entity, if such experience is supervised in accordance with the
10 requirements of the certifying entity;

11 (9) An individual who teaches behavior analysis or conducts
12 behavior-analytic research, if such activities do not involve the direct
13 delivery of applied behavior analysis services beyond the typical
14 parameters of applied research. Such an individual may use the title
15 "behavior analyst" but shall not represent that the individual is a
16 licensed behavior analyst unless the individual is licensed under the
17 act; and

18 (10) An individual employed by a school district performing the
19 duties for which employed. Such an individual shall not represent that
20 the individual is a licensed behavior analyst unless the individual is
21 licensed under the act, shall not offer applied behavior analysis
22 services to any person or entity other than the school which employs the
23 individual, and shall not accept remuneration for providing applied
24 behavior analysis services other than the remuneration received for the
25 duties for which employed by the school employer.

26 Sec. 10. (1) Beginning one year after the effective date of this
27 act, each applicant for licensure as a licensed behavior analyst or
28 licensed assistant behavior analyst shall submit an application that
29 includes evidence that the applicant meets the requirements of the
30 Uniform Credentialing Act for a license as a licensed behavior analyst or
31 licensed assistant behavior analyst, as applicable.

1 (2) The board shall adopt rules and regulations to specify minimum
2 standards required for a license as a licensed behavior analyst or a
3 licensed assistant behavior analyst as provided in section 38-126. The
4 board shall include certification by the certifying entity as a Board
5 Certified Behavior Analyst® or a Board Certified Behavior Analyst-
6 Doctoral® as part of the minimum standards for licensure as a licensed
7 behavior analyst. The board shall include certification by the certifying
8 entity as a Board Certified Assistant Behavior Analyst® as part of the
9 minimum standards for licensure as a licensed assistant behavior analyst.

10 Sec. 11. (1) A behavior analyst or an assistant behavior analyst
11 who is licensed in another jurisdiction or certified by the certifying
12 entity to practice independently and who provides applied behavior
13 analysis services in the State of Nebraska on a short-term basis may
14 apply for a temporary license. An applicant for a temporary license shall
15 submit evidence that the practice in Nebraska will be temporary as
16 determined by the board according to rules and regulations adopted and
17 promulgated pursuant to section 38-126. The department shall issue a
18 temporary license under this subsection only if the department verifies
19 the applicant's licensure or certification status with the relevant
20 entity.

21 (2) An applicant for licensure as a licensed behavior analyst or as
22 a licensed assistant behavior analyst under the Behavior Analyst Practice
23 Act who is a military spouse may apply for a temporary license as
24 provided in section 38-129.01.

25 Sec. 12. A behavior technician shall not represent that the
26 technician is a professional behavior analyst and shall use a title that
27 indicates the nonprofessional status, such as Registered Behavior
28 Technician®, behavior technician, or tutor.

29 A behavior technician shall not design assessment or intervention
30 plans or procedures but may deliver services as assigned by the
31 supervisor responsible for the technician's work as designated by the

1 licensed behavior analyst.

2 Sec. 13. The board shall adopt a code of conduct for licensed
3 behavior analysts and licensed assistant behavior analysts. The code of
4 conduct shall be based on the Ethics Code for Behavior Analysts adopted
5 by the certifying entity.

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

9 Sec. 15. Section 38-101, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 38-101 Sections 38-101 to 38-1,147 and the following practice acts
12 shall be known and may be cited as the Uniform Credentialing Act:

- 13 (1) The Advanced Practice Registered Nurse Practice Act;
- 14 (2) The Alcohol and Drug Counseling Practice Act;
- 15 (3) The Athletic Training Practice Act;
- 16 (4) The Audiology and Speech-Language Pathology Practice Act;
- 17 (5) The Behavior Analyst Practice Act;
- 18 (6) (5) The Certified Nurse Midwifery Practice Act;
- 19 (7) (6) The Certified Registered Nurse Anesthetist Practice Act;
- 20 (8) (7) The Chiropractic Practice Act;
- 21 (9) (8) The Clinical Nurse Specialist Practice Act;
- 22 (10) (9) The Cosmetology, Electrology, Esthetics, Nail Technology,
23 and Body Art Practice Act;
- 24 (11) (10) The Dentistry Practice Act;
- 25 (12) (11) The Dialysis Patient Care Technician Registration Act;
- 26 (13) (12) The Emergency Medical Services Practice Act;
- 27 (14) (13) The Environmental Health Specialists Practice Act;
- 28 (15) (14) The Funeral Directing and Embalming Practice Act;
- 29 (16) (15) The Genetic Counseling Practice Act;
- 30 (17) (16) The Hearing Instrument Specialists Practice Act;
- 31 (18) (17) The Licensed Practical Nurse-Certified Practice Act until

1 November 1, 2017;

2 ~~(19)~~ ~~(18)~~ The Massage Therapy Practice Act;

3 ~~(20)~~ ~~(19)~~ The Medical Nutrition Therapy Practice Act;

4 ~~(21)~~ ~~(20)~~ The Medical Radiography Practice Act;

5 ~~(22)~~ ~~(21)~~ The Medicine and Surgery Practice Act;

6 ~~(23)~~ ~~(22)~~ The Mental Health Practice Act;

7 ~~(24)~~ ~~(23)~~ The Nurse Practice Act;

8 ~~(25)~~ ~~(24)~~ The Nurse Practitioner Practice Act;

9 ~~(26)~~ ~~(25)~~ The Nursing Home Administrator Practice Act;

10 ~~(27)~~ ~~(26)~~ The Occupational Therapy Practice Act;

11 ~~(28)~~ ~~(27)~~ The Optometry Practice Act;

12 ~~(29)~~ ~~(28)~~ The Perfusion Practice Act;

13 ~~(30)~~ ~~(29)~~ The Pharmacy Practice Act;

14 ~~(31)~~ ~~(30)~~ The Physical Therapy Practice Act;

15 ~~(32)~~ ~~(31)~~ The Podiatry Practice Act;

16 ~~(33)~~ ~~(32)~~ The Psychology Practice Act;

17 ~~(34)~~ ~~(33)~~ The Respiratory Care Practice Act;

18 ~~(35)~~ ~~(34)~~ The Surgical First Assistant Practice Act; and

19 ~~(36)~~ ~~(35)~~ The Veterinary Medicine and Surgery Practice Act.

20 If there is any conflict between any provision of sections 38-101 to
21 38-1,147 and any provision of a practice act, the provision of the
22 practice act shall prevail except as otherwise specifically provided in
23 section 38-129.02.

24 Sec. 16. Section 38-121, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 38-121 (1) No individual shall engage in the following practices
27 unless such individual has obtained a credential under the Uniform
28 Credentialing Act:

29 (a) Acupuncture;

30 (b) Advanced practice nursing;

31 (c) Alcohol and drug counseling;

- 1 (d) Asbestos abatement, inspection, project design, and training;
- 2 (e) Athletic training;
- 3 (f) Audiology;
- 4 (g) Speech-language pathology;
- 5 (h) Beginning one year after the effective date of this act,
- 6 behavior analysis;
- 7 (i) ~~(h)~~ Body art;
- 8 (j) ~~(i)~~ Chiropractic;
- 9 (k) ~~(j)~~ Cosmetology;
- 10 (l) ~~(k)~~ Dentistry;
- 11 (m) ~~(l)~~ Dental hygiene;
- 12 (n) ~~(m)~~ Electrology;
- 13 (o) ~~(n)~~ Emergency medical services;
- 14 (p) ~~(o)~~ Esthetics;
- 15 (q) ~~(p)~~ Funeral directing and embalming;
- 16 (r) ~~(q)~~ Genetic counseling;
- 17 (s) ~~(r)~~ Hearing instrument dispensing and fitting;
- 18 (t) ~~(s)~~ Lead-based paint abatement, inspection, project design, and
- 19 training;
- 20 (u) ~~(t)~~ Licensed practical nurse-certified until November 1, 2017;
- 21 (v) ~~(u)~~ Massage therapy;
- 22 (w) ~~(v)~~ Medical nutrition therapy;
- 23 (x) ~~(w)~~ Medical radiography;
- 24 (y) ~~(x)~~ Medicine and surgery;
- 25 (z) ~~(y)~~ Mental health practice;
- 26 (aa) ~~(z)~~ Nail technology;
- 27 (bb) ~~(aa)~~ Nursing;
- 28 (cc) ~~(bb)~~ Nursing home administration;
- 29 (dd) ~~(cc)~~ Occupational therapy;
- 30 (ee) ~~(dd)~~ Optometry;
- 31 (ff) ~~(ee)~~ Osteopathy;

- 1 (gg) ~~(ff)~~ Perfusion;
- 2 (hh) ~~(gg)~~ Pharmacy;
- 3 (ii) ~~(hh)~~ Physical therapy;
- 4 (jj) ~~(ii)~~ Podiatry;
- 5 (kk) ~~(jj)~~ Psychology;
- 6 (ll) ~~(kk)~~ Radon detection, measurement, and mitigation;
- 7 (mm) ~~(ll)~~ Respiratory care;
- 8 (nn) ~~(mm)~~ Surgical assisting; and
- 9 (oo) ~~(nn)~~ Veterinary medicine and surgery.

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

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

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

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

28 Sec. 17. Section 38-129.02, Revised Statutes Cumulative Supplement,
29 2022, is amended to read:

30 38-129.02 (1) This section provides an additional method of issuing
31 a credential based on reciprocity and is supplemental to the methods of

1 credentialing found in the various practice acts within the Uniform
2 Credentialing Act. Any person required to be credentialed under any of
3 the various practice acts who meets the requirements of this section
4 shall be issued a credential subject to the provisions of this section.

5 (2) A person who has a credential that is current and valid in
6 another state, a territory of the United States, or the District of
7 Columbia may apply to the department for the equivalent credential under
8 the Uniform Credentialing Act. The department, with the recommendation of
9 the board with jurisdiction over the equivalent credential, shall
10 determine the appropriate level of credential for which the applicant
11 qualifies under this section. The department shall determine the
12 documentation required to comply with subsection (3) of this section. The
13 department shall issue the credential if the applicant meets the
14 requirements of subsections (3) and (4) of this section and section
15 38-129 and submits the appropriate fees for issuance of the credential,
16 including fees for a criminal background check if required for the
17 profession. A credential issued under this section shall not be valid for
18 purposes of an interstate compact or for reciprocity provisions of any
19 practice act under the Uniform Credentialing Act.

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

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

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

26 (c) Educational requirements;

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

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

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

6 (g) Such credential has not been subject to disciplinary action. If
7 another jurisdiction has taken disciplinary action against the applicant
8 on any credential the applicant has held, the appropriate board under the
9 Uniform Credentialing Act shall determine if the cause for the
10 disciplinary action was corrected and the matter resolved. If the matter
11 has not been resolved, the applicant is not eligible for a credential
12 under this section until the matter is resolved; and

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

16 (4) An applicant who obtains a credential upon compliance with
17 subsections (2) and (3) of this section shall establish residency in
18 Nebraska within one hundred eighty days after the issuance of the
19 credential and shall provide proof of residency in a manner and within
20 the time period required by the department. The department shall
21 automatically revoke the credential of any credential holder who fails to
22 comply with this subsection.

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

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

30 (b) The applicant has a complaint, allegation, or investigation
31 pending before any jurisdiction that relates to unprofessional conduct or

1 any other conduct which would be subject to section 38-178 if the conduct
2 occurred in Nebraska. If the matter has not been resolved, the applicant
3 is not eligible for a credential under this section until the matter is
4 resolved; or

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

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

12 (7) This section applies to credentials for:

13 (a) Professions governed by the Advanced Practice Registered Nurse
14 Practice Act, the Behavior Analyst Practice Act, the Certified Nurse
15 Midwifery Practice Act, the Certified Registered Nurse Anesthetist
16 Practice Act, the Clinical Nurse Specialist Practice Act, the Dentistry
17 Practice Act, the Dialysis Patient Care Technician Registration Act, the
18 Emergency Medical Services Practice Act, the Medical Nutrition Therapy
19 Practice Act, the Medical Radiography Practice Act, the Nurse
20 Practitioner Practice Act, the Optometry Practice Act, the Perfusion
21 Practice Act, the Pharmacy Practice Act, the Psychology Practice Act, and
22 the Surgical First Assistant Practice Act; and

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

25 Sec. 18. Section 38-131, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 38-131 (1) An applicant for an initial license to practice as a
28 registered nurse, a licensed practical nurse, a physical therapist, a
29 physical therapy assistant, a psychologist, an advanced emergency medical
30 technician, an emergency medical technician, an audiologist, a speech-
31 language pathologist, a licensed behavior analyst, a licensed assistant

1 behavior analyst, a licensed independent mental health practitioner, an
2 occupational therapist, an occupational therapy assistant, or a paramedic
3 or to practice a profession which is authorized to prescribe controlled
4 substances shall be subject to a criminal background check. A criminal
5 background check may also be required for initial licensure or
6 reinstatement of a license governed by the Uniform Credentialing Act if a
7 criminal background check is required by an interstate licensure compact.
8 Except as provided in subsection (3) of this section, the applicant shall
9 submit with the application a full set of fingerprints which shall be
10 forwarded to the Nebraska State Patrol to be submitted to the Federal
11 Bureau of Investigation for a national criminal history record
12 information check. The applicant shall authorize release of the results
13 of the national criminal history record information check to the
14 department. The applicant shall pay the actual cost of the fingerprinting
15 and criminal background check.

16 (2) This section shall not apply to a dentist who is an applicant
17 for a dental locum tenens under section 38-1122, to a physician or
18 osteopathic physician who is an applicant for a physician locum tenens
19 under section 38-2036, or to a veterinarian who is an applicant for a
20 veterinarian locum tenens under section 38-3335.

21 (3) An applicant for a temporary educational permit as defined in
22 section 38-2019 shall have ninety days from the issuance of the permit to
23 comply with subsection (1) of this section and shall have his or her
24 permit suspended after such ninety-day period if the criminal background
25 check is not complete or revoked if the criminal background check reveals
26 that the applicant was not qualified for the permit.

27 Sec. 19. Section 38-167, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 38-167 (1) Boards shall be designated as follows:

30 (a) Board of Advanced Practice Registered Nurses;

31 (b) Board of Alcohol and Drug Counseling;

- 1 (c) Board of Athletic Training;
- 2 (d) Board of Audiology and Speech-Language Pathology;
- 3 (e) Board of Behavior Analysts;
- 4 (f) ~~(e)~~ Board of Chiropractic;
- 5 (g) ~~(f)~~ Board of Cosmetology, Electrology, Esthetics, Nail
- 6 Technology, and Body Art;
- 7 (h) ~~(g)~~ Board of Dentistry;
- 8 (i) ~~(h)~~ Board of Emergency Medical Services;
- 9 (j) ~~(i)~~ Board of Registered Environmental Health Specialists;
- 10 (k) ~~(j)~~ Board of Funeral Directing and Embalming;
- 11 (l) ~~(k)~~ Board of Hearing Instrument Specialists;
- 12 (m) ~~(l)~~ Board of Massage Therapy;
- 13 (n) ~~(m)~~ Board of Medical Nutrition Therapy;
- 14 (o) ~~(n)~~ Board of Medical Radiography;
- 15 (p) ~~(o)~~ Board of Medicine and Surgery;
- 16 (q) ~~(p)~~ Board of Mental Health Practice;
- 17 (r) ~~(q)~~ Board of Nursing;
- 18 (s) ~~(r)~~ Board of Nursing Home Administration;
- 19 (t) ~~(s)~~ Board of Occupational Therapy Practice;
- 20 (u) ~~(t)~~ Board of Optometry;
- 21 (v) ~~(u)~~ Board of Pharmacy;
- 22 (w) ~~(v)~~ Board of Physical Therapy;
- 23 (x) ~~(w)~~ Board of Podiatry;
- 24 (y) ~~(x)~~ Board of Psychology;
- 25 (z) ~~(y)~~ Board of Respiratory Care Practice; and
- 26 (aa) ~~(z)~~ Board of Veterinary Medicine and Surgery.

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

1 Sec. 20. Section 38-186, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 38-186 (1) A petition shall be filed by the Attorney General in
4 order for the director to discipline a credential obtained under the
5 Uniform Credentialing Act to:

6 (a) Practice or represent oneself as being certified under any of
7 the practice acts enumerated in section 38-101 other than subdivision
8 (21) subdivisions (1) through (19) and (21) through (35) of section
9 38-101; or

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

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

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

28 Sec. 21. Original sections 38-101, 38-121, 38-129.02, 38-131,
29 38-167, and 38-186, Revised Statutes Cumulative Supplement, 2022, are
30 repealed.