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SENATE BILL 121

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Jacob R. Candelaria and G. Andres Romero

AN ACT

RELATING TO PROFESSIONAL SERVICES; ENACTING A NEW SECTION OF THE UNFAIR PRACTICES ACT TO DECLARE CONVERSION THERAPY TO BE UNLAWFUL WITHIN THE MEANING OF THE UNFAIR PRACTICES ACT; ENACTING NEW SECTIONS OF THE NURSING PRACTICE ACT, THE MEDICAL PRACTICE ACT, THE PROFESSIONAL PSYCHOLOGIST ACT, THE OSTEOPATHIC MEDICINE ACT, THE COUNSELING AND THERAPY PRACTICE ACT AND THE SOCIAL WORK PRACTICE ACT TO LIST CONVERSION THERAPY AS GROUNDS FOR DISCIPLINARY ACTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Unfair Practices Act is enacted to read:

"[NEW MATERIAL] CONVERSION THERAPY--UNFAIR PRACTICE.--

A. It is unlawful within the meaning of the Unfair Practices Act to:

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1 (1) provide conversion therapy to any person
2 under eighteen years of age in exchange for monetary
3 compensation for the conversion therapy; or

4 (2) advertise for the provision of conversion
5 therapy where the advertising claims:

6 (a) to be capable of changing a person's
7 sexual orientation or gender identity;

8 (b) to eliminate in a person, who is the
9 subject of conversion therapy, sexual or romantic attraction or
10 feelings toward persons of the same gender; or

11 (c) that conversion therapy is harmless
12 or without risk to persons subject to conversion therapy.

13 B. As used in this section:

14 (1) "conversion therapy" means any practice or
15 treatment that seeks to change a person's sexual orientation or
16 gender identity, including any effort to change behaviors or
17 gender expressions or to eliminate or reduce sexual or romantic
18 attractions or feelings toward persons of the same sex.

19 "Conversion therapy" does not mean:

20 (a) counseling or mental health services
21 that provide acceptance, support and understanding of a person
22 without seeking to change gender identity or sexual
23 orientation; or

24 (b) mental health services that
25 facilitate a person's coping, social support, sexual

1 orientation or gender identity exploration and development,
2 including an intervention to prevent or address unlawful
3 conduct or unsafe sexual practices, without seeking to change
4 gender identity or sexual orientation;

5 (2) "gender identity" means a person's
6 self-perception, or perception of that person by another, of
7 the person's identity as a male or female based upon the
8 person's appearance, behavior or physical characteristics that
9 are in accord with or opposed to the person's physical anatomy,
10 chromosomal sex or sex at birth; and

11 (3) "sexual orientation" means
12 heterosexuality, homosexuality or bisexuality, whether actual
13 or perceived."

14 SECTION 2. Section 61-3-28 NMSA 1978 (being Laws 1968,
15 Chapter 44, Section 24, as amended) is amended to read:

16 "61-3-28. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW--
17 APPLICATION OF UNIFORM LICENSING ACT--LIMITATION.--

18 A. In accordance with the procedures contained in
19 the Uniform Licensing Act, the board may deny, revoke or
20 suspend any license held or applied for under the Nursing
21 Practice Act, reprimand or place a licensee on probation or
22 deny, limit or revoke the multistate licensure privilege of a
23 nurse desiring to practice or practicing professional
24 registered nursing or licensed practical nursing as provided in
25 the Nurse Licensure Compact upon grounds that the licensee,

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1 applicant or nurse:

2 (1) is guilty of fraud or deceit in procuring
3 or attempting to procure a license or certificate of
4 registration;

5 (2) is convicted of a felony;

6 (3) is unfit or incompetent;

7 (4) is intemperate or is addicted to the use
8 of habit-forming drugs;

9 (5) is mentally incompetent;

10 (6) is guilty of unprofessional conduct as
11 defined by the rules and regulations adopted by the board
12 pursuant to the Nursing Practice Act;

13 (7) has willfully or repeatedly violated any
14 provisions of the Nursing Practice Act, including any rule or
15 regulation adopted by the board pursuant to that act; [~~or~~]

16 (8) was licensed to practice nursing in any
17 jurisdiction, territory or possession of the United States or
18 another country and was the subject of disciplinary action as a
19 licensee for acts similar to acts described in this subsection.
20 A certified copy of the record of the jurisdiction, territory
21 or possession of the United States or another country taking
22 the disciplinary action is conclusive evidence of the action;
23 or

24 (9) uses conversion therapy on a minor.

25 B. Disciplinary proceedings may be instituted by

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1 any person, shall be by complaint and shall conform with the
2 provisions of the Uniform Licensing Act. Any party to the
3 hearing may obtain a copy of the hearing record upon payment of
4 costs for the copy.

5 C. Any person filing a complaint shall be immune
6 from liability arising out of civil action if the complaint is
7 filed in good faith and without actual malice.

8 D. The board shall not initiate a disciplinary
9 action more than two years after the date that it receives a
10 complaint.

11 E. The time limitation contained in Subsection D of
12 this section shall not be tolled by any civil or criminal
13 litigation in which the licensee or applicant is a party,
14 arising substantially from the same facts, conduct,
15 transactions or occurrences that would be the basis for the
16 board's disciplinary action.

17 F. The board may recover the costs associated with
18 the investigation and disposition of a disciplinary proceeding
19 from the nurse who is the subject of the proceeding if the
20 nurse is practicing professional registered nursing or licensed
21 practical nursing pursuant to a multistate licensure privilege
22 as provided in the Nurse Licensure Compact.

23 G. As used in this section:

24 (1) "conversion therapy" means any practice or
25 treatment that seeks to change a person's sexual orientation or

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1 gender identity, including any effort to change behaviors or
2 gender expressions or to eliminate or reduce sexual or romantic
3 attractions or feelings toward persons of the same sex.

4 "Conversion therapy" does not mean:

5 (a) counseling or mental health services
6 that provide acceptance, support and understanding of a person
7 without seeking to change gender identity or sexual
8 orientation; or

9 (b) mental health services that
10 facilitate a person's coping, social support, sexual
11 orientation or gender identity exploration and development,
12 including an intervention to prevent or address unlawful
13 conduct or unsafe sexual practices, without seeking to change
14 gender identity or sexual orientation;

15 (2) "gender identity" means a person's
16 self-perception, or perception of that person by another, of
17 the person's identity as a male or female based upon the
18 person's appearance, behavior or physical characteristics that
19 are in accord or opposed to the person's physical anatomy,
20 chromosomal sex or sex at birth;

21 (3) "minor" means a person under eighteen
22 years of age; and

23 (4) "sexual orientation" means
24 heterosexuality, homosexuality or bisexuality, whether actual
25 or perceived."

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1 SECTION 3. Section 61-6-15 NMSA 1978 (being Laws 1969,
2 Chapter 46, Section 6, as amended by Laws 2008, Chapter 53,
3 Section 12 and by Laws 2008, Chapter 54, Section 13) is amended
4 to read:

5 "61-6-15. LICENSE MAY BE REFUSED, REVOKED OR SUSPENDED--
6 LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED--PROCEDURE--
7 PRACTICE AFTER SUSPENSION OR REVOCATION--PENALTY--
8 UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED--FEES AND
9 EXPENSES.--

10 A. The board may refuse to license and may revoke
11 or suspend a license that has been issued by the board or a
12 previous board and may fine, censure or reprimand a licensee
13 upon satisfactory proof being made to the board that the
14 applicant for or holder of the license has been guilty of
15 unprofessional or dishonorable conduct. The board may also
16 refuse to license an applicant who is unable to practice
17 medicine, practice as a physician assistant or an
18 anesthesiologist assistant, [~~or~~] practice genetic counseling or
19 engage in the practice of polysomnography, pursuant to Section
20 61-7-3 NMSA 1978. All proceedings shall be as required by the
21 Uniform Licensing Act or the Impaired Health Care Provider Act.

22 B. The board may, in its discretion and for good
23 cause shown, place the licensee on probation on the terms and
24 conditions it deems proper for protection of the public, for
25 the purpose of rehabilitation of the probationer or both. Upon

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1 expiration of the term of probation, if a term is set, further
2 proceedings may be abated by the board if the holder of the
3 license furnishes the board with evidence that the licensee is
4 competent to practice, is of good moral character and has
5 complied with the terms of probation.

6 C. If evidence fails to establish to the
7 satisfaction of the board that the licensee is competent and is
8 of good moral character or if evidence shows that the licensee
9 has not complied with the terms of probation, the board may
10 revoke or suspend the license. If a license to practice in
11 this state is suspended, the holder of the license may not
12 practice during the term of suspension. A person whose license
13 has been revoked or suspended by the board and who thereafter
14 practices or attempts or offers to practice in New Mexico,
15 unless the period of suspension has expired or been modified by
16 the board or the license reinstated, is guilty of a felony and
17 shall be punished as provided in Section 61-6-20 NMSA 1978.

18 D. "Unprofessional or dishonorable conduct", as
19 used in this section, means, but is not limited to because of
20 enumeration, conduct of a licensee that includes the following:

- 21 (1) procuring, aiding or abetting a criminal
22 abortion;
- 23 (2) employing a person to solicit patients for
24 the licensee;
- 25 (3) representing to a patient that a

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1 manifestly incurable condition of sickness, disease or injury
2 can be cured;

3 (4) obtaining a fee by fraud or
4 misrepresentation;

5 (5) willfully or negligently divulging a
6 professional confidence;

7 (6) conviction of an offense punishable by
8 incarceration in a state penitentiary or federal prison or
9 conviction of a misdemeanor associated with the practice of the
10 licensee. A copy of the record of conviction, certified by the
11 clerk of the court entering the conviction, is conclusive
12 evidence;

13 (7) habitual or excessive use of intoxicants
14 or drugs;

15 (8) fraud or misrepresentation in applying for
16 or procuring a license to practice in this state or in
17 connection with applying for or procuring renewal, including
18 cheating on or attempting to subvert the licensing
19 examinations;

20 (9) making false or misleading statements
21 regarding the skill of the licensee or the efficacy or value of
22 the medicine, treatment or remedy prescribed or administered by
23 the licensee or at the direction of the licensee in the
24 treatment of a disease or other condition of the human body or
25 mind;

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1 (10) impersonating another licensee,
2 permitting or allowing a person to use the license of the
3 licensee or practicing as a licensee under a false or assumed
4 name;

5 (11) aiding or abetting the practice of a
6 person not licensed by the board;

7 (12) gross negligence in the practice of a
8 licensee;

9 (13) manifest incapacity or incompetence to
10 practice as a licensee;

11 (14) discipline imposed on a licensee by
12 another state, including denial, probation, suspension or
13 revocation, based upon acts by the licensee similar to acts
14 described in this section. A certified copy of the record of
15 suspension or revocation of the state making the suspension or
16 revocation is conclusive evidence;

17 (15) the use of a false, fraudulent or
18 deceptive statement in a document connected with the practice
19 of a licensee;

20 (16) fee splitting;

21 (17) the prescribing, administering or
22 dispensing of narcotic, stimulant or hypnotic drugs for other
23 than accepted therapeutic purposes;

24 (18) conduct likely to deceive, defraud or
25 harm the public;

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- 1 (19) repeated similar negligent acts;
- 2 (20) employing abusive billing practices;
- 3 (21) failure to report to the board any
- 4 adverse action taken against the licensee by:
- 5 (a) another licensing jurisdiction;
- 6 (b) a peer review body;
- 7 (c) a health care entity;
- 8 (d) a professional or medical society or
- 9 association;
- 10 (e) a governmental agency;
- 11 (f) a law enforcement agency; or
- 12 (g) a court for acts or conduct similar
- 13 to acts or conduct that would constitute grounds for action as
- 14 defined in this section;
- 15 (22) failure to report to the board surrender
- 16 of a license or other authorization to practice in another
- 17 state or jurisdiction or surrender of membership on any medical
- 18 staff or in any medical or professional association or society
- 19 following, in lieu of and while under disciplinary
- 20 investigation by any of those authorities or bodies for acts or
- 21 conduct similar to acts or conduct that would constitute
- 22 grounds for action as defined in this section;
- 23 (23) failure to furnish the board, its
- 24 investigators or representatives with information requested by
- 25 the board;

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1 (24) abandonment of patients;

2 (25) being found mentally incompetent or
3 insane by a court of competent jurisdiction;

4 (26) injudicious prescribing, administering or
5 dispensing of a drug or medicine;

6 (27) failure to adequately supervise, as
7 provided by board rule, a medical or surgical assistant or
8 technician or professional licensee who renders health care;

9 (28) sexual contact with a patient or person
10 who has authority to make medical decisions for a patient,
11 other than the spouse of the licensee;

12 (29) conduct unbecoming in a person licensed
13 to practice or detrimental to the best interests of the public;

14 (30) the surrender of a license or withdrawal
15 of an application for a license before another state licensing
16 board while an investigation or disciplinary action is pending
17 before that board for acts or conduct similar to acts or
18 conduct that would constitute grounds for action pursuant to
19 this section;

20 (31) sexual contact with a former mental
21 health patient of the licensee, other than the spouse of the
22 licensee, within one year from the end of treatment;

23 (32) sexual contact with a patient when the
24 licensee uses or exploits treatment, knowledge, emotions or
25 influence derived from the previous professional relationship;

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1 (33) improper management of medical records,
2 including failure to maintain timely, accurate, legible and
3 complete medical records;

4 (34) failure to provide pertinent and
5 necessary medical records to a physician or patient of the
6 physician in a timely manner when legally requested to do so by
7 the patient or by a legally designated representative of the
8 patient;

9 (35) undertreatment of pain as provided by
10 board rule;

11 (36) interaction with physicians, hospital
12 personnel, patients, family members or others that interferes
13 with patient care or could reasonably be expected to adversely
14 impact the quality of care rendered to a patient;

15 (37) soliciting or receiving compensation by a
16 physician assistant or anesthesiologist assistant from a person
17 who is not an employer of the assistant; ~~[or]~~

18 (38) willfully or negligently divulging
19 privileged information or a professional secret; or

20 (39) the use of conversion therapy on a minor.

21 E. As used in this section:

22 (1) "conversion therapy" means any practice or
23 treatment that seeks to change a person's sexual orientation or
24 gender identity, including any effort to change behaviors or
25 gender expressions or to eliminate or reduce sexual or romantic

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1 attractions or feelings toward persons of the same sex.

2 "Conversion therapy" does not mean:

3 (a) counseling or mental health services
4 that provide acceptance, support and understanding of a person
5 without seeking to change gender identity or sexual
6 orientation; or

7 (b) mental health services that
8 facilitate a person's coping, social support, sexual
9 orientation or gender identity exploration and development,
10 including an intervention to prevent or address unlawful
11 conduct or unsafe sexual practices, without seeking to change
12 gender identity or sexual orientation;

13 (2) "fee splitting" includes offering,
14 delivering, receiving or accepting any unearned rebate,
15 refunds, commission preference, patronage dividend, discount or
16 other unearned consideration, whether in the form of money or
17 otherwise, as compensation or inducement for referring
18 patients, clients or customers to a person, irrespective of any
19 membership, proprietary interest or co-ownership in or with a
20 person to whom the patients, clients or customers are referred;

21 (3) "gender identity" means a person's
22 self-perception, or perception of that person by another, of
23 the person's identity as a male or female based upon the
24 person's appearance, behavior or physical characteristics that
25 are in accord with or opposed to the person's physical anatomy,

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1 chromosomal sex or sex at birth;

2 (4) "minor" means a person under eighteen
3 years of age; and

4 (5) "sexual orientation" means
5 heterosexuality, homosexuality or bisexuality, whether actual
6 or perceived.

7 F. Licensees whose licenses are in a probationary
8 status shall pay reasonable expenses for maintaining
9 probationary status, including laboratory costs when laboratory
10 testing of biological fluids are included as a condition of
11 probation."

12 SECTION 4. Section 61-9-13 NMSA 1978 (being Laws 1963,
13 Chapter 92, Section 12, as amended) is amended to read:

14 "61-9-13. DENIAL, REVOCATION OR SUSPENSION OF LICENSE.--

15 A. The board, by an affirmative vote of at least
16 five of its eight members, shall withhold, deny, revoke or
17 suspend a psychologist or psychologist associate license issued
18 or applied for in accordance with the provisions of the
19 Professional Psychologist Act or otherwise discipline a
20 licensed psychologist or psychologist associate upon proof that
21 the applicant, licensed psychologist or psychologist associate:

22 (1) has been convicted of a felony or an
23 offense involving moral turpitude, the record of conviction
24 being conclusive evidence thereof;

25 (2) is using a drug, substance or alcoholic

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1 beverage to an extent or in a manner dangerous to the
2 psychologist or psychologist associate, any other person or the
3 public or to an extent that the use impairs the psychologist's
4 or psychologist associate's ability to perform the work of a
5 professional psychologist or psychologist associate with safety
6 to the public;

7 (3) has impersonated another person holding a
8 psychologist or psychologist associate license or allowed
9 another person to use the psychologist's or psychologist
10 associate's license;

11 (4) has used fraud or deception in applying
12 for a license or in taking an examination provided for in the
13 Professional Psychologist Act;

14 (5) has accepted commissions or rebates or
15 other forms of remuneration for referring clients to other
16 professional persons;

17 (6) has allowed the psychologist's or
18 psychologist associate's name or license issued under the
19 Professional Psychologist Act to be used in connection with a
20 person who performs psychological services outside of the area
21 of that person's training, experience or competence;

22 (7) is legally adjudicated insane or mentally
23 incompetent, the record of such adjudication being conclusive
24 evidence thereof;

25 (8) has willfully or negligently violated the

1 provisions of the Professional Psychologist Act;

2 (9) has violated any code of conduct adopted
3 by the board;

4 (10) has been disciplined by another state for
5 acts similar to acts described in this subsection, and a
6 certified copy of the record of discipline of the state
7 imposing the discipline is conclusive evidence;

8 (11) is incompetent to practice psychology;

9 (12) has failed to furnish to the board or its
10 representative information requested by the board;

11 (13) has abandoned patients or clients;

12 (14) has failed to report to the board adverse
13 action taken against the licensee by:

14 (a) another licensing jurisdiction;

15 (b) a professional psychologist
16 association of which the psychologist or psychologist associate
17 is or has been a member;

18 (c) a government agency; or

19 (d) a court for actions or conduct
20 similar to acts or conduct that would constitute grounds for
21 action as described in this subsection;

22 (15) has failed to report to the board
23 surrender of a license or other authorization to practice
24 psychology in another jurisdiction or surrender of membership
25 on a health care staff or in a professional association

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1 following a disciplinary investigation, or in lieu of or while
2 under a disciplinary investigation, by any of those authorities
3 for acts or conduct that would constitute grounds for action as
4 defined in this subsection;

5 (16) has failed to adequately supervise a
6 psychologist associate;

7 (17) has employed abusive billing practices;
8 [~~or~~]

9 (18) has aided or abetted the practice of
10 psychology by a person not licensed by the board; or

11 (19) uses conversion therapy on a minor.

12 B. A person who has been refused a license or whose
13 license has been restricted or suspended under the provisions
14 of this section may reapply for licensure after more than two
15 years have elapsed from the date the restriction or suspension
16 is terminated.

17 C. As used in this section:

18 (1) "conversion therapy" means any practice or
19 treatment that seeks to change a person's sexual orientation or
20 gender identity, including any effort to change behaviors or
21 gender expressions or to eliminate or reduce sexual or romantic
22 attractions or feelings toward persons of the same sex.

23 "Conversion therapy" does not mean:

24 (a) counseling or mental health services
25 that provide acceptance, support and understanding of a person

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1 without seeking to change gender identity or sexual
2 orientation; or

3 (b) mental health services that
4 facilitate a person's coping, social support, sexual
5 orientation or gender identity exploration and development,
6 including an intervention to prevent or address unlawful
7 conduct or unsafe sexual practices, without seeking to change
8 gender identity or sexual orientation;

9 (2) "gender identity" means a person's
10 self-perception, or perception of that person by another, of
11 the person's identity as a male or female based upon the
12 person's appearance, behavior or physical characteristics that
13 are in accord with or opposed to the person's physical anatomy,
14 chromosomal sex or sex at birth;

15 (3) "minor" means a person under eighteen
16 years of age; and

17 (4) "sexual orientation" means
18 heterosexuality, homosexuality or bisexuality, whether actual
19 or perceived."

20 SECTION 5. Section 61-9A-26 NMSA 1978 (being Laws 1993,
21 Chapter 49, Section 26, as amended) is amended to read:

22 "61-9A-26. LICENSE AND REGISTRATION--DENIAL, SUSPENSION
23 AND REVOCATION.--

24 A. In accordance with the procedures established by
25 the Uniform Licensing Act, the board may deny, suspend or

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1 revoke any license or registration held or applied for under
2 the Counseling and Therapy Practice Act, or take any other
3 action provided for in the Uniform Licensing Act, upon grounds
4 that the licensee, registrant or applicant:

5 (1) is guilty of fraud, deceit or
6 misrepresentation in procuring or attempting to procure any
7 license or registration provided for in the Counseling and
8 Therapy Practice Act;

9 (2) is adjudicated mentally incompetent by
10 regularly constituted authorities;

11 (3) is found guilty of a felony or misdemeanor
12 involving moral turpitude;

13 (4) is found guilty of unprofessional or
14 unethical conduct;

15 (5) has illicitly been using any controlled
16 substances, as defined in the Controlled Substances Act, or
17 using a mood-altering substance or alcoholic beverage to an
18 extent or in a manner dangerous to ~~himself~~ the licensee,
19 registrant or applicant or any other person or the public or to
20 an extent that the use impairs ~~his~~ the licensee's,
21 registrant's or applicant's ability to perform the work of a
22 counselor or therapist practitioner;

23 (6) has violated any provision of the
24 Counseling and Therapy Practice Act or regulations adopted by
25 the board;

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1 (7) is grossly negligent in practice as a
2 professional counselor or therapist practitioner;

3 (8) willfully or negligently divulges a
4 professional confidence;

5 (9) demonstrates marked incompetence in
6 practice as a professional counselor or therapist practitioner;

7 (10) has had a license or registration to
8 practice as a counselor, therapist or other mental health
9 practitioner revoked, suspended or denied in any jurisdiction,
10 territory or possession of the United States or another country
11 for acts of the licensee or registrant similar to acts
12 described in this subsection; [~~or~~]

13 (11) knowingly and willfully practices beyond
14 the scope of practice, as defined by the board; or

15 (12) uses conversion therapy on a minor.

16 B. A certified copy of the record of conviction
17 shall be conclusive evidence of such conviction.

18 C. Disciplinary proceedings may be instituted by
19 the sworn complaint of any person, including members of the
20 board, and shall conform to the provisions of the Uniform
21 Licensing Act. Any party to a hearing may obtain a copy of the
22 hearing record upon payment of costs for such copy.

23 D. A person who violates any provision of the
24 Counseling and Therapy Practice Act is guilty of a misdemeanor
25 and upon conviction shall be punished as provided in Section

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1 31-19-1 NMSA 1978.

2 E. As used in this section:

3 (1) "conversion therapy" means any practice or
4 treatment that seeks to change a person's sexual orientation or
5 gender identity, including any effort to change behaviors or
6 gender expressions or to eliminate or reduce sexual or romantic
7 attractions or feelings toward persons of the same sex.

8 "Conversion therapy" does not mean:

9 (a) counseling or mental health services
10 that provide acceptance, support and understanding of a person
11 without seeking to change gender identity or sexual
12 orientation; or

13 (b) mental health services that
14 facilitate a person's coping, social support, sexual
15 orientation or gender identity exploration and development,
16 including an intervention to prevent or address unlawful
17 conduct or unsafe sexual practices, without seeking to change
18 gender identity or sexual orientation;

19 (2) "gender identity" means a person's
20 self-perception, or perception of that person by another, of
21 the person's identity as a male or female based upon the
22 person's appearance, behavior or physical characteristics that
23 are in accord with or opposed to the person's physical anatomy,
24 chromosomal sex or sex at birth;

25 (3) "minor" means a person under eighteen

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1 years of age; and

2 (4) "sexual orientation" means
3 heterosexuality, homosexuality or bisexuality, whether actual
4 or perceived."

5 SECTION 6. Section 61-10-15.1 NMSA 1978 (being Laws 2016,
6 Chapter 90, Section 20) is amended to read:

7 "61-10-15.1. LICENSURE--SUMMARY SUSPENSION--SUMMARY
8 RESTRICTION--GROUNDS.--

9 A. The board may suspend or restrict a license to
10 practice osteopathic medicine in New Mexico issued by the board
11 without a hearing, simultaneously or at any time after the
12 initiation of proceedings for a hearing provided pursuant to
13 the Uniform Licensing Act, if the board finds that evidence in
14 its possession indicates that the licensee:

15 (1) poses a clear and immediate danger to the
16 public health and safety if the licensee continues to practice;

17 (2) has been adjudged mentally incompetent by
18 a final order or adjudication by a court of competent
19 jurisdiction; [~~or~~]

20 (3) has pled guilty to or has been found
21 guilty of any offense relating to the practice of osteopathic
22 medicine or any violent criminal offense in this state or a
23 substantially equivalent criminal offense in another
24 jurisdiction; or

25 (4) uses conversion therapy on a minor.

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1 B. A licensee shall not be required to comply with
2 a summary suspension or restriction of a license until notice
3 has been served in accordance with procedures established in
4 board rules or the licensee has actual knowledge of an order of
5 suspension or restriction, whichever occurs first.

6 C. A licensee whose license is suspended or
7 restricted pursuant to this section shall be entitled to a
8 hearing before the board pursuant to the Uniform Licensing Act
9 within fifteen days from the date the licensee requests a
10 hearing.

11 D. As used in this section:

12 (1) "conversion therapy" means any practice or
13 treatment that seeks to change a person's sexual orientation or
14 gender identity, including any effort to change behaviors or
15 gender expressions or to eliminate or reduce sexual or romantic
16 attractions or feelings toward persons of the same sex.

17 "Conversion therapy" does not mean:

18 (a) counseling or mental health services
19 that provide acceptance, support and understanding of a person
20 without seeking to change gender identity or sexual
21 orientation; or

22 (b) mental health services that
23 facilitate a person's coping, social support, sexual
24 orientation or gender identity exploration and development,
25 including an intervention to prevent or address unlawful

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1 conduct or unsafe sexual practices, without seeking to change
2 gender identity or sexual orientation;

3 (2) "gender identity" means a person's
4 self-perception, or perception of that person by another, of
5 the person's identity as a male or female based upon the
6 person's appearance, behavior or physical characteristics that
7 are in accord with or opposed to the person's physical anatomy,
8 chromosomal sex or sex at birth;

9 (3) "minor" means a person under eighteen
10 years of age; and

11 (4) "sexual orientation" means
12 heterosexuality, homosexuality or bisexuality, whether actual
13 or perceived."

14 SECTION 7. Section 61-31-17 NMSA 1978 (being Laws 1989,
15 Chapter 51, Section 17) is amended to read:

16 "61-31-17. LICENSE DENIAL, SUSPENSION OR REVOCATION.--

17 A. In accordance with procedures contained in the
18 Uniform Licensing Act, the board may deny, revoke or suspend
19 any license held or applied for under the Social Work Practice
20 Act, upon grounds that the licensee or applicant:

21 (1) is guilty of fraud, deceit or
22 misrepresentation in procuring or attempting to procure any
23 license or certification provided for in the Social Work
24 Practice Act;

25 (2) has been adjudicated as mentally

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1 incompetent by regularly constituted authorities;

2 (3) has been convicted of a felony;

3 (4) is guilty of unprofessional or unethical
4 conduct;

5 (5) is habitually or excessively using
6 controlled substances or alcohol;

7 (6) has repeatedly and persistently violated
8 any of the provisions of the Social Work Practice Act or
9 regulations of New Mexico or any other state or territory and
10 has been convicted thereof;

11 (7) has been convicted of the commission of
12 any illegal operation;

13 (8) is grossly negligent or incompetent in the
14 practice of social work; [~~or~~]

15 (9) has had a license to practice social work
16 revoked, suspended or denied in any jurisdiction, territory or
17 possession of the United States or another country for acts of
18 the licensee similar to acts described in this subsection. A
19 certified copy of the record of the jurisdiction, territory or
20 possession of the United States or another country making such
21 revocation, suspension or denial shall be conclusive evidence
22 thereof; or

23 (10) uses conversion therapy on a minor.

24 B. Disciplinary proceedings may be instituted by
25 sworn complaint of any person, including members of the board,

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1 and shall conform with the provisions of the Uniform Licensing
2 Act. Any party to a hearing may obtain a copy of the hearing
3 record upon payment of costs for [~~such~~] the copy.

4 C. As used in this section:

5 (1) "conversion therapy" means any practice or
6 treatment that seeks to change a person's sexual orientation or
7 gender identity, including any effort to change behaviors or
8 gender expressions or to eliminate or reduce sexual or romantic
9 attractions or feelings toward persons of the same sex.

10 "Conversion therapy" does not mean:

11 (a) counseling or mental health services
12 that provide acceptance, support and understanding of a person
13 without seeking to change gender identity or sexual
14 orientation; or

15 (b) mental health services that
16 facilitate a person's coping, social support, sexual
17 orientation or gender identity exploration and development,
18 including an intervention to prevent or address unlawful
19 conduct or unsafe sexual practices, without seeking to change
20 gender identity or sexual orientation;

21 (2) "gender identity" means a person's
22 self-perception, or perception of that person by another, of
23 the person's identity as a male or female based upon the
24 person's appearance, behavior or physical characteristics that
25 are in accord with or opposed to the person's physical anatomy,

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1 chromosomal sex or sex at birth;

2 (3) "minor" means a person under eighteen
3 years of age; and

4 (4) "sexual orientation" means
5 heterosexuality, homosexuality or bisexuality, whether actual
6 or perceived."

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