

HOUSE BILL 359

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Kristina Ortez

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING SECTIONS OF THE UNIFORM LICENSING ACT, NURSING PRACTICE ACT, MEDICAL PRACTICE ACT, PROFESSIONAL PSYCHOLOGIST ACT, COUNSELING AND THERAPY PRACTICE ACT AND SOCIAL WORK PRACTICE ACT TO MAKE THE PROVISION OF CONVERSION THERAPY TO ANY PERSON, REGARDLESS OF AGE, SUBJECT TO DISCIPLINARY ACTION.

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

SECTION 1. Section 61-1-3.3 NMSA 1978 (being Laws 2017, Chapter 132, Section 1) is amended to read:

"61-1-3.3. CONVERSION THERAPY--GROUNDS FOR DISCIPLINARY ACTION.--

A. A person licensed pursuant to provisions of Chapter 61 NMSA 1978 shall not provide conversion therapy to any person [~~under eighteen years of age~~]. The provision of

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1 conversion therapy in violation of the provisions of this
2 subsection shall be grounds for disciplinary action by a board
3 in accordance with the provisions of the Uniform Licensing Act.

4 B. 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" means the societal expectation or
22 perception that a person is more masculine or feminine based on
23 appearance, behavior or physical characteristics;

24 ~~{2}~~ (3) "gender identity" means a person's
25 self-perception ~~[or perception of that person by another, of~~

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1 ~~the person's identity as a male or female~~ of being more
2 masculine or feminine, or neither masculine nor feminine, based
3 upon the person's appearance, behavior or physical
4 characteristics ~~[that are in accord with or opposed to the~~
5 ~~person's physical anatomy, chromosomal sex]~~ whether or not the
6 self-perception matches the person's gender or sex assigned at
7 birth; ~~[and]~~

8 (4) "sex" means the categorization of a person
9 as male, female or intersex based on biology, physiology and
10 physical characteristics; and

11 ~~[(3)]~~ (5) "sexual orientation" means
12 ~~[heterosexuality, homosexuality or bisexuality, whether actual~~
13 ~~or perceived]~~ a person's physical, romantic or emotional
14 attraction, or lack of attraction, to people of a particular
15 gender or gender identity."

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

18 "61-3-28. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW--
19 APPLICATION OF UNIFORM LICENSING ACT--LIMITATION.--

20 A. In accordance with the procedures contained in
21 the Uniform Licensing Act, the board may deny, revoke or
22 suspend any license held or applied for under the Nursing
23 Practice Act, reprimand or place a licensee on probation or
24 deny, limit or revoke the multistate licensure privilege of a
25 nurse desiring to practice or practicing professional

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1 registered nursing or licensed practical nursing as provided in
2 the Nurse Licensure Compact upon grounds that the licensee,
3 applicant or nurse:

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

7 (2) is convicted of a felony;

8 (3) is unfit or incompetent;

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

11 (5) is mentally incompetent;

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

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

18 (8) was licensed to practice nursing in any
19 jurisdiction, territory or possession of the United States or
20 another country and was the subject of disciplinary action as a
21 licensee for acts similar to acts described in this subsection.

22 A certified copy of the record of the jurisdiction, territory
23 or possession of the United States or another country taking
24 the disciplinary action is conclusive evidence of the action;
25 or

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- 1 (9) uses conversion therapy [~~on a minor~~].
- 2 B. Disciplinary proceedings may be instituted by
- 3 any person, shall be by complaint and shall conform with the
- 4 provisions of the Uniform Licensing Act. Any party to the
- 5 hearing may obtain a copy of the hearing record upon payment of
- 6 costs for the copy.
- 7 C. Any person filing a complaint shall be immune
- 8 from liability arising out of civil action if the complaint is
- 9 filed with reasonable care.
- 10 D. The board shall not initiate a disciplinary
- 11 action more than two years after the date that it receives a
- 12 complaint.
- 13 E. The time limitation contained in Subsection D of
- 14 this section shall not be tolled by any civil or criminal
- 15 litigation in which the licensee or applicant is a party,
- 16 arising substantially from the same facts, conduct,
- 17 transactions or occurrences that would be the basis for the
- 18 board's disciplinary action.
- 19 F. The board may recover the costs associated with
- 20 the investigation and disposition of a disciplinary proceeding
- 21 from the nurse who is the subject of the proceeding if the
- 22 nurse is practicing professional registered nursing or licensed
- 23 practical nursing pursuant to a multistate licensure privilege
- 24 as provided in the Nurse Licensure Compact.
- 25 G. As used in this section:

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

6 "Conversion therapy" does not mean:

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

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

17 (2) "gender" means the societal expectation or
18 perception that a person is more masculine or feminine based on
19 appearance, behavior or physical characteristics;

20 ~~[(2)]~~ (3) "gender identity" means a person's
21 self-perception ~~[or perception of that person by another, of~~
22 ~~the person's identity as a male or female]~~ of being more
23 masculine or feminine, or neither masculine nor feminine, based
24 upon the person's appearance, behavior or physical
25 characteristics ~~[that are in accord or opposed to the person's~~

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1 ~~physical anatomy, chromosomal sex]~~ whether or not the self-
2 perception matches the person's gender or sex assigned at
3 birth;

4 [~~(3) "minor" means a person under eighteen~~
5 ~~years of age; and]~~

6 (4) "sex" means the categorization of a person
7 as male, female or intersex based on biology, physiology and
8 physical characteristics; and

9 [~~(4)~~] (5) "sexual orientation" means
10 [heterosexuality, homosexuality or bisexuality, whether actual
11 or perceived] a person's physical, romantic or emotional
12 attraction, or lack of attraction, to people of a particular
13 gender or gender identity."

14 SECTION 3. Section 61-6-15 NMSA 1978 (being Laws 1969,
15 Chapter 46, Section 6, as amended) is amended to read:

16 "61-6-15. LICENSE MAY BE REFUSED, REVOKED OR SUSPENDED--
17 LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED--PROCEDURE--
18 PRACTICE AFTER SUSPENSION OR REVOCATION--PENALTY--
19 UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED--FEES AND
20 EXPENSES.--

21 A. The board may refuse to license and may revoke
22 or suspend a license that has been issued by the board or a
23 previous board and may fine, censure or reprimand a licensee
24 upon satisfactory proof being made to the board that the
25 applicant for or holder of the license has been guilty of

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1 unprofessional or dishonorable conduct. The board may also
2 refuse to license an applicant who is unable to practice as a
3 physician, practice as a physician assistant, an
4 anesthesiologist assistant, a genetic counselor, a naturopathic
5 practitioner or naprapathic practitioner or practice
6 polysomnography, pursuant to Section 61-7-3 NMSA 1978. All
7 proceedings shall be as required by the Uniform Licensing Act
8 or the Impaired Health Care Provider Act.

9 B. The board may, in its discretion and for good
10 cause shown, place the licensee on probation on the terms and
11 conditions it deems proper for protection of the public, for
12 the purpose of rehabilitation of the probationer or both. Upon
13 expiration of the term of probation, if a term is set, further
14 proceedings may be abated by the board if the holder of the
15 license furnishes the board with evidence that the licensee is
16 competent to practice, is of good moral character and has
17 complied with the terms of probation.

18 C. If evidence fails to establish to the
19 satisfaction of the board that the licensee is competent and is
20 of good moral character or if evidence shows that the licensee
21 has not complied with the terms of probation, the board may
22 revoke or suspend the license. If a license to practice in
23 this state is suspended, the holder of the license may not
24 practice during the term of suspension. A person whose license
25 has been revoked or suspended by the board and who thereafter

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1 practices or attempts or offers to practice in New Mexico,
2 unless the period of suspension has expired or been modified by
3 the board or the license reinstated, is guilty of a felony and
4 shall be punished as provided in Section 61-6-20 NMSA 1978.

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

8 (1) procuring, aiding or abetting an illegal
9 procedure;

10 (2) employing a person to solicit patients for
11 the licensee;

12 (3) representing to a patient that a
13 manifestly incurable condition of sickness, disease or injury
14 can be cured;

15 (4) obtaining a fee by fraud or
16 misrepresentation;

17 (5) willfully or negligently divulging a
18 professional confidence;

19 (6) conviction of an offense punishable by
20 incarceration in a state penitentiary or federal prison or
21 conviction of a misdemeanor associated with the practice of the
22 licensee. A copy of the record of conviction, certified by the
23 clerk of the court entering the conviction, is conclusive
24 evidence;

25 (7) habitual or excessive use of intoxicants

1 or drugs;

2 (8) fraud or misrepresentation in applying for
3 or procuring a license to practice in this state or in
4 connection with applying for or procuring renewal, including
5 cheating on or attempting to subvert the licensing
6 examinations;

7 (9) making false or misleading statements
8 regarding the skill of the licensee or the efficacy or value of
9 the medicine, treatment or remedy prescribed or administered by
10 the licensee or at the direction of the licensee in the
11 treatment of a disease or other condition of the human body or
12 mind;

13 (10) impersonating another licensee,
14 permitting or allowing a person to use the license of the
15 licensee or practicing as a licensee under a false or assumed
16 name;

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

19 (12) gross negligence in the practice of a
20 licensee;

21 (13) manifest incapacity or incompetence to
22 practice as a licensee;

23 (14) discipline imposed on a licensee by
24 another licensing jurisdiction, including denial, probation,
25 suspension or revocation, based upon acts by the licensee

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1 similar to acts described in this section. A certified copy of
2 the record of disciplinary action or sanction taken by another
3 jurisdiction is conclusive evidence of the action;

4 (15) the use of a false, fraudulent or
5 deceptive statement in a document connected with the practice
6 of a licensee;

7 (16) fee splitting;

8 (17) the prescribing, administering or
9 dispensing of narcotic, stimulant or hypnotic drugs for other
10 than accepted therapeutic purposes;

11 (18) conduct likely to deceive, defraud or
12 harm the public;

13 (19) repeated similar negligent acts or a
14 pattern of conduct otherwise described in this section or in
15 violation of a board rule;

16 (20) employing abusive billing practices;

17 (21) failure to report to the board any
18 adverse action taken against the licensee by:

- 19 (a) another licensing jurisdiction;
20 (b) a peer review body;
21 (c) a health care entity;
22 (d) a professional or medical society or
23 association;
24 (e) a governmental agency;
25 (f) a law enforcement agency; or

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1 (g) a court for acts or conduct similar
2 to acts or conduct that would constitute grounds for action as
3 defined in this section;

4 (22) failure to report to the board the denial
5 of licensure, surrender of a license or other authorization to
6 practice in another state or jurisdiction or surrender of
7 membership on any medical staff or in any medical or
8 professional association or society following, in lieu of and
9 while under disciplinary investigation by any of those
10 authorities or bodies for acts or conduct similar to acts or
11 conduct that would constitute grounds for action as defined in
12 this section;

13 (23) failure to furnish the board, its
14 investigators or representatives with information requested by
15 the board;

16 (24) abandonment of patients;

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

19 (26) injudicious prescribing, administering or
20 dispensing of a drug or medicine;

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

24 (28) sexual contact with a patient or person
25 who has authority to make medical decisions for a patient,

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1 other than the spouse of the licensee;

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

4 (30) the surrender of a license or withdrawal
5 of an application for a license before another state licensing
6 board while an investigation or disciplinary action is pending
7 before that board for acts or conduct similar to acts or
8 conduct that would constitute grounds for action pursuant to
9 this section;

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

13 (32) sexual contact with a patient when the
14 licensee uses or exploits treatment, knowledge, emotions or
15 influence derived from the current or previous professional
16 relationship;

17 (33) improper management of medical records,
18 including failure to maintain timely, accurate, legible and
19 complete medical records;

20 (34) failure to provide pertinent and
21 necessary medical records to a physician or patient of the
22 physician in a timely manner when legally requested to do so by
23 the patient or by a legally designated representative of the
24 patient;

25 (35) undertreatment of pain as provided by

1 board rule;

2 (36) interaction with physicians, hospital
3 personnel, patients, family members or others that interferes
4 with patient care or could reasonably be expected to adversely
5 impact the quality of care rendered to a patient;

6 (37) soliciting or receiving compensation by a
7 physician assistant or anesthesiologist assistant from a person
8 who is not an employer of the assistant;

9 (38) willfully or negligently divulging
10 privileged information or a professional secret; or

11 (39) the use of conversion therapy [~~on a~~
12 ~~minor~~].

13 E. 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

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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) "fee splitting" includes offering,
6 delivering, receiving or accepting any unearned rebate,
7 refunds, commission preference, patronage dividend, discount or
8 other unearned consideration, whether in the form of money or
9 otherwise, as compensation or inducement for referring
10 patients, clients or customers to a person, irrespective of any
11 membership, proprietary interest or co-ownership in or with a
12 person to whom the patients, clients or customers are referred;

13 (3) "gender" means the societal expectation or
14 perception that a person is more masculine or feminine based on
15 appearance, behavior or physical characteristics;

16 ~~[(3)]~~ (4) "gender identity" means a person's
17 self-perception ~~[or perception of that person by another, of~~
18 ~~the person's identity as a male or female]~~ of being more
19 masculine or feminine, or neither masculine nor feminine, based
20 upon the person's appearance, behavior or physical
21 characteristics ~~[that are in accord with or opposed to the~~
22 ~~person's physical anatomy, chromosomal sex]~~ whether or not the
23 self-perception matches the person's gender or sex assigned at
24 birth;

25 ~~[(4)] "minor" means a person under eighteen~~

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1 ~~years of age; and]~~

2 (5) "sex" means the categorization of a person
3 as male, female or intersex based on biology, physiology and
4 physical characteristics; and

5 [~~(5)~~] (6) "sexual orientation" means
6 [heterosexuality, homosexuality or bisexuality, whether actual
7 or perceived] a person's physical, romantic or emotional
8 attraction, or lack of attraction, to people of a particular
9 gender or gender identity.

10 F. Licensees whose licenses are in a probationary
11 status shall pay reasonable expenses for maintaining
12 probationary status, including laboratory costs when laboratory
13 testing of biological fluids ~~[are]~~ is included as a condition
14 of probation."

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

17 "61-9-13. DENIAL, REVOCATION OR SUSPENSION OF LICENSE.--

18 A. In accordance with the Uniform Licensing Act,
19 the board, by an affirmative vote of at least five of its eight
20 members, shall withhold, deny, revoke or suspend a psychologist
21 or psychologist associate license issued or applied for in
22 accordance with the provisions of the Professional Psychologist
23 Act or otherwise discipline a psychologist or psychologist
24 associate upon proof that the applicant, psychologist or
25 psychologist associate:

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

4 (2) is using a drug, substance or alcoholic
5 beverage to an extent or in a manner dangerous to the
6 psychologist or psychologist associate, any other person or the
7 public or to an extent that the use impairs the psychologist's
8 or psychologist associate's ability to perform the work of a
9 professional psychologist or psychologist associate with safety
10 to the public;

11 (3) has impersonated another person holding a
12 psychologist or psychologist associate license or allowed
13 another person to use the psychologist's or psychologist
14 associate's license;

15 (4) has used fraud or deception in applying
16 for a license or in taking an examination provided for in the
17 Professional Psychologist Act;

18 (5) has accepted commissions or rebates or
19 other forms of remuneration for referring clients to other
20 professional persons;

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

1 (7) is legally adjudicated insane or mentally
2 incompetent, the record of such adjudication being conclusive
3 evidence thereof;

4 (8) has willfully or negligently violated the
5 provisions of the Professional Psychologist Act;

6 (9) has violated any code of conduct adopted
7 by the board;

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

12 (11) is incompetent to practice psychology;

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

15 (13) has abandoned patients or clients;

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

18 (a) another licensing jurisdiction;

19 (b) a professional psychologist
20 association of which the psychologist or psychologist associate
21 is or has been a member;

22 (c) a government agency; or

23 (d) a court for actions or conduct
24 similar to acts or conduct that would constitute grounds for
25 action as described in this subsection;

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1 (15) has failed to report to the board
2 surrender of a license or other authorization to practice
3 psychology in another jurisdiction or surrender of membership
4 on a health care staff or in a professional association
5 following a disciplinary investigation, or in lieu of or while
6 under a disciplinary investigation, by any of those authorities
7 for acts or conduct that would constitute grounds for action as
8 defined in this subsection;

9 (16) has failed to adequately supervise a
10 psychologist associate or a licensed psychologist holding a
11 conditional prescription certificate;

12 (17) has employed abusive billing practices;

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

15 (19) uses conversion therapy ~~[on a minor]~~.

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

21 C. 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) "gender" means the societal expectation or
14 perception that a person is more masculine or feminine based on
15 appearance, behavior or physical characteristics;

16 ~~[(2)]~~ (3) "gender identity" means a person's
17 self-perception [or perception of that person by another, of
18 the person's identity as a male or female] of being more
19 masculine or feminine, or neither masculine nor feminine, based
20 upon the person's appearance, behavior or physical
21 characteristics [that are in accord with or opposed to the
22 person's physical anatomy, chromosomal sex] whether or not the
23 self-perception matches the person's gender or sex assigned at
24 birth;

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

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1 ~~years of age; and]~~

2 (4) "sex" means the categorization of a person
3 as male, female or intersex based on biology, physiology and
4 physical characteristics; and

5 [~~(4)~~] (5) "sexual orientation" means
6 [heterosexuality, homosexuality or bisexuality, whether actual
7 or perceived] a person's physical, romantic or emotional
8 attraction, or lack of attraction, to people of a particular
9 gender or gender identity."

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

12 "61-9A-26. LICENSE AND REGISTRATION--DENIAL, SUSPENSION
13 AND REVOCATION.--

14 A. In accordance with the procedures established by
15 the Uniform Licensing Act, the board may deny, suspend or
16 revoke any license or registration held or applied for under
17 the Counseling and Therapy Practice Act, or take any other
18 action provided for in the Uniform Licensing Act, upon grounds
19 that the licensee, registrant or applicant:

20 (1) is guilty of fraud, deceit or
21 misrepresentation in procuring or attempting to procure any
22 license or registration provided for in the Counseling and
23 Therapy Practice Act;

24 (2) is adjudicated mentally incompetent by
25 regularly constituted authorities;

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1 (3) is found guilty of a felony or misdemeanor
2 involving moral turpitude;

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

5 (5) has illicitly been using any controlled
6 substances, as defined in the Controlled Substances Act, or
7 using a mood-altering substance or alcoholic beverage to an
8 extent or in a manner dangerous to the licensee, registrant or
9 applicant or any other person or the public or to an extent
10 that the use impairs the licensee's, registrant's or
11 applicant's ability to perform the work of a counselor or
12 therapist practitioner;

13 (6) has violated any provision of the
14 Counseling and Therapy Practice Act or regulations adopted by
15 the board;

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

18 (8) willfully or negligently divulges a
19 professional confidence;

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

22 (10) has had a license or registration to
23 practice as a counselor, therapist or other mental health
24 practitioner revoked, suspended or denied in any jurisdiction,
25 territory or possession of the United States or another country

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1 for acts of the licensee or registrant similar to acts
2 described in this subsection;

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

5 (12) uses conversion therapy [~~on a minor~~].

6 B. A certified copy of the record of conviction
7 shall be conclusive evidence of such conviction.

8 C. Disciplinary proceedings may be instituted by
9 the sworn complaint of any person, including members of the
10 board, and shall conform to the provisions of the Uniform
11 Licensing Act. Any party to a hearing may obtain a copy of the
12 hearing record upon payment of costs for such copy.

13 D. A person who violates any provision of the
14 Counseling and Therapy Practice Act is guilty of a misdemeanor
15 and upon conviction shall be punished as provided in Section
16 31-19-1 NMSA 1978.

17 E. 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" means the societal expectation or
10 perception that a person is more masculine or feminine based on
11 appearance, behavior or physical characteristics;

12 [~~(2)~~] (3) "gender identity" means a person's
13 self-perception [or perception of that person by another, of
14 the person's identity as a male or female] of being more
15 masculine or feminine, or neither masculine nor feminine, based
16 upon the person's appearance, behavior or physical
17 characteristics [that are in accord with or opposed to the
18 person's physical anatomy, chromosomal sex] whether or not the
19 self-perception matches the person's gender or sex assigned at
20 birth;

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

23 (4) "sex" means the categorization of a person
24 as male, female or intersex based on biology, physiology and
25 physical characteristics; and

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1 [~~(4)~~] (5) "sexual orientation" means
2 [~~heterosexuality, homosexuality or bisexuality, whether actual~~
3 ~~or perceived~~] a person's physical, romantic or emotional
4 attraction, or lack of attraction, to people of a particular
5 gender or gender identity."

6 SECTION 6. Section 61-31-17 NMSA 1978 (being Laws 1989,
7 Chapter 51, Section 17, as amended) is amended to read:

8 "61-31-17. LICENSE DENIAL, SUSPENSION OR REVOCATION.--

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

13 (1) is guilty of fraud, deceit or
14 misrepresentation in procuring or attempting to procure any
15 license or certification provided for in the Social Work
16 Practice Act;

17 (2) has been adjudicated as mentally
18 incompetent by regularly constituted authorities;

19 (3) has been convicted of a felony;

20 (4) is guilty of unprofessional or unethical
21 conduct;

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

24 (6) has repeatedly and persistently violated
25 any of the provisions of the Social Work Practice Act or

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~~[bracketed material] = delete~~

1 regulations of New Mexico or any other state or territory and
2 has been convicted thereof;

3 (7) has been convicted of the commission of
4 any illegal operation;

5 (8) is grossly negligent or incompetent in the
6 practice of social work;

7 (9) has had a license to practice social work
8 revoked, suspended or denied in any jurisdiction, territory or
9 possession of the United States or another country for acts of
10 the licensee similar to acts described in this subsection. A
11 certified copy of the record of the jurisdiction, territory or
12 possession of the United States or another country making such
13 revocation, suspension or denial shall be conclusive evidence
14 thereof; or

15 (10) uses conversion therapy ~~[on a minor]~~.

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

21 C. 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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[bracketed material] = delete

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) "gender" means the societal expectation or
14 perception that a person is more masculine or feminine based on
15 appearance, behavior or physical characteristics;

16 ~~[(2)]~~ (3) "gender identity" means a person's
17 self-perception [or perception of that person by another, of
18 the person's identity as a male or female] of being more
19 masculine or feminine, or neither masculine nor feminine, based
20 upon the person's appearance, behavior or physical
21 characteristics [that are in accord with or opposed to the
22 person's physical anatomy, chromosomal sex] whether or not the
23 self-perception matches the person's gender or sex assigned at
24 birth;

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

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1 ~~years of age; and]~~

2 (4) "sex" means the categorization of a person
3 as male, female or intersex based on biology, physiology and
4 physical characteristics; and

5 [~~(4)~~] (5) "sexual orientation" means
6 [~~heterosexuality, homosexuality or bisexuality, whether actual~~
7 ~~or perceived]~~ a person's physical, romantic or emotional
8 attraction, or lack of attraction, to people of a particular
9 gender or gender identity."

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