

1 SENATE HEALTH AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 256

3 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

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10 AN ACT

11 RELATING TO PROFESSIONAL LICENSURE; AMENDING SECTIONS OF THE
12 UNIFORM LICENSING ACT, NURSING PRACTICE ACT, MEDICAL PRACTICE
13 ACT, PROFESSIONAL PSYCHOLOGIST ACT, COUNSELING AND THERAPY
14 PRACTICE ACT AND SOCIAL WORK PRACTICE ACT TO MAKE THE USE OF
15 AVERSIVE THERAPY OR CONDITIONING IN CONVERSION THERAPY TO ANY
16 PERSON, REGARDLESS OF AGE, SUBJECT TO DISCIPLINARY ACTION.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

21 "61-1-3.3. CONVERSION THERAPY--GROUNDS FOR DISCIPLINARY
22 ACTION.--

23 A. A person licensed pursuant to provisions of
24 Chapter 61 NMSA 1978 shall not provide conversion therapy to
25 any person under eighteen years of age. A person licensed

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1 pursuant to provisions of Chapter 61 NMSA 1978 shall not use
2 aversive therapy or conditioning in conversion therapy. The
3 provision of conversion therapy in violation of the provisions
4 of this subsection shall be grounds for disciplinary action by
5 a board in accordance with the provisions of the Uniform
6 Licensing Act.

7 B. As used in this section:

8 (1) "aversive therapy or conditioning" means
9 conduct in behavioral therapy causing physical stimuli in the
10 patient with the aim of reducing unwanted behavior;

11 [~~1~~] (2) "conversion therapy" means any
12 practice or treatment that seeks to change a person's sexual
13 orientation or gender identity, including any effort to change
14 behaviors or gender expressions or to eliminate or reduce
15 sexual or romantic attractions or feelings toward persons of
16 the same sex. "Conversion therapy" does not mean:

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

21 (b) mental health services that
22 facilitate a person's coping, social support, sexual
23 orientation or gender identity exploration and development,
24 including an intervention to prevent or address unlawful
25 conduct or unsafe sexual practices, without seeking to change

1 gender identity or sexual orientation;

2 [~~(2)~~] (3) "gender identity" [~~means a person's~~
 3 ~~self-perception, or perception of that person by another, of~~
 4 ~~the person's identity as a male or female based upon the~~
 5 ~~person's appearance, behavior or physical characteristics that~~
 6 ~~are in accord with or opposed to the person's physical anatomy,~~
 7 ~~chromosomal sex or sex at birth]~~ has the same meaning as set
 8 forth in Section 28-1-2 NMSA 1978; and

9 [~~(3)~~] (4) "sexual orientation" [~~means~~
 10 ~~heterosexuality, homosexuality or bisexuality, whether actual~~
 11 ~~or perceived]~~ has the same meaning as set forth in Section
 12 28-1-2 NMSA 1978."

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

15 "61-3-28. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW--
 16 APPLICATION OF UNIFORM LICENSING ACT--LIMITATION.--

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

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

4 (2) is convicted of a felony;

5 (3) is unfit or incompetent;

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

8 (5) is mentally incompetent;

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

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

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

19 A certified copy of the record of the jurisdiction, territory
20 or possession of the United States or another country taking
21 the disciplinary action is conclusive evidence of the action;

22 [~~or~~]

23 (9) uses conversion therapy on a minor; or

24 (10) uses aversive therapy or conditioning in
25 conversion therapy.

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

6 C. Any person filing a complaint shall be immune
 7 from liability arising out of civil action if the complaint is
 8 filed with reasonable care.

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

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

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

24 G. As used in this section:

25 (1) "aversive therapy or conditioning" means

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1 conduct in behavioral therapy causing physical stimuli in the
2 patient with the aim of reducing unwanted behavior;

3 ~~[(1)]~~ (2) "conversion therapy" means any
4 practice or treatment that seeks to change a person's sexual
5 orientation or gender identity, including any effort to change
6 behaviors or gender expressions or to eliminate or reduce
7 sexual or romantic attractions or feelings toward persons of
8 the same sex. "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)]~~ (3) "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 or opposed to the person's physical anatomy,~~
24 ~~chromosomal sex or sex at birth]~~ has the same meaning as set
25 forth in Section 28-1-2 NMSA 1978;

1 [~~(3)~~] (4) "minor" means a person under
 2 eighteen years of age; and

3 [~~(4)~~] (5) "sexual orientation" [~~means~~
 4 ~~heterosexuality, homosexuality or bisexuality, whether actual~~
 5 ~~or perceived~~] has the same meaning as set forth in Section
 6 28-1-2 NMSA 1978."

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

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

14 A. The board may refuse to license and may revoke
 15 or suspend a license that has been issued by the board or a
 16 previous board and may fine, censure or reprimand a licensee
 17 upon satisfactory proof being made to the board that the
 18 applicant for or holder of the license has been guilty of
 19 unprofessional or dishonorable conduct. The board may also
 20 refuse to license an applicant who is unable to practice as a
 21 physician, practice as a physician assistant, an
 22 anesthesiologist assistant, a genetic counselor, a naturopathic
 23 practitioner or naprapathic practitioner or practice
 24 polysomnography, pursuant to Section 61-7-3 NMSA 1978. All
 25 proceedings shall be as required by the Uniform Licensing Act

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1 or the Impaired Health Care Provider Act.

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

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

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

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- 1 (1) procuring, aiding or abetting an illegal
2 procedure;
- 3 (2) employing a person to solicit patients for
4 the licensee;
- 5 (3) representing to a patient that a
6 manifestly incurable condition of sickness, disease or injury
7 can be cured;
- 8 (4) obtaining a fee by fraud or
9 misrepresentation;
- 10 (5) willfully or negligently divulging a
11 professional confidence;
- 12 (6) conviction of an offense punishable by
13 incarceration in a state penitentiary or federal prison or
14 conviction of a misdemeanor associated with the practice of the
15 licensee. A copy of the record of conviction, certified by the
16 clerk of the court entering the conviction, is conclusive
17 evidence;
- 18 (7) habitual or excessive use of intoxicants
19 or drugs;
- 20 (8) fraud or misrepresentation in applying for
21 or procuring a license to practice in this state or in
22 connection with applying for or procuring renewal, including
23 cheating on or attempting to subvert the licensing
24 examinations;
- 25 (9) making false or misleading statements

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1 regarding the skill of the licensee or the efficacy or value of
2 the medicine, treatment or remedy prescribed or administered by
3 the licensee or at the direction of the licensee in the
4 treatment of a disease or other condition of the human body or
5 mind;

6 (10) impersonating another licensee,
7 permitting or allowing a person to use the license of the
8 licensee or practicing as a licensee under a false or assumed
9 name;

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

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

14 (13) manifest incapacity or incompetence to
15 practice as a licensee;

16 (14) discipline imposed on a licensee by
17 another licensing jurisdiction, including denial, probation,
18 suspension or revocation, based upon acts by the licensee
19 similar to acts described in this section. A certified copy of
20 the record of disciplinary action or sanction taken by another
21 jurisdiction is conclusive evidence of the action;

22 (15) the use of a false, fraudulent or
23 deceptive statement in a document connected with the practice
24 of a licensee;

25 (16) fee splitting;

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1 (17) the prescribing, administering or
2 dispensing of narcotic, stimulant or hypnotic drugs for other
3 than accepted therapeutic purposes;

4 (18) conduct likely to deceive, defraud or
5 harm the public;

6 (19) repeated similar negligent acts or a
7 pattern of conduct otherwise described in this section or in
8 violation of a board rule;

9 (20) employing abusive billing practices;

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

12 (a) another licensing jurisdiction;

13 (b) a peer review body;

14 (c) a health care entity;

15 (d) a professional or medical society or
16 association;

17 (e) a governmental agency;

18 (f) a law enforcement agency; or

19 (g) a court for acts or conduct similar
20 to acts or conduct that would constitute grounds for action as
21 defined in this section;

22 (22) failure to report to the board the denial
23 of licensure, surrender of a license or other authorization to
24 practice in another state or jurisdiction or surrender of
25 membership on any medical staff or in any medical or

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1 professional association or society following, in lieu of and
2 while under disciplinary investigation by any of those
3 authorities or bodies for acts or conduct similar to acts or
4 conduct that would constitute grounds for action as defined in
5 this section;

6 (23) failure to furnish the board, its
7 investigators or representatives with information requested by
8 the board;

9 (24) abandonment of patients;

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

12 (26) injudicious prescribing, administering or
13 dispensing of a drug or medicine;

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

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

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

22 (30) the surrender of a license or withdrawal
23 of an application for a license before another state licensing
24 board while an investigation or disciplinary action is pending
25 before that board for acts or conduct similar to acts or

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1 conduct that would constitute grounds for action pursuant to
 2 this section;

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

6 (32) sexual contact with a patient when the
 7 licensee uses or exploits treatment, knowledge, emotions or
 8 influence derived from the current or previous professional
 9 relationship;

10 (33) improper management of medical records,
 11 including failure to maintain timely, accurate, legible and
 12 complete medical records;

13 (34) failure to provide pertinent and
 14 necessary medical records to a physician or patient of the
 15 physician in a timely manner when legally requested to do so by
 16 the patient or by a legally designated representative of the
 17 patient;

18 (35) undertreatment of pain as provided by
 19 board rule;

20 (36) interaction with physicians, hospital
 21 personnel, patients, family members or others that interferes
 22 with patient care or could reasonably be expected to adversely
 23 impact the quality of care rendered to a patient;

24 (37) soliciting or receiving compensation by a
 25 physician assistant or anesthesiologist assistant from a person

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1 who is not an employer of the assistant;

2 (38) willfully or negligently divulging
3 privileged information or a professional secret; ~~[or]~~

4 (39) the use of conversion therapy on a minor;
5 or

6 (40) the use of aversive therapy or
7 conditioning in conversion therapy.

8 E. As used in this section:

9 (1) "aversive therapy or conditioning" means
10 conduct in behavioral therapy causing physical stimuli in the
11 patient with the aim of reducing unwanted behavior;

12 ~~[(1)]~~ (2) "conversion therapy" means any
13 practice or treatment that seeks to change a person's sexual
14 orientation or gender identity, including any effort to change
15 behaviors or gender expressions or to eliminate or reduce
16 sexual or romantic attractions or feelings toward persons of
17 the same sex. "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)]~~ (3) "fee splitting" includes offering,
 4 delivering, receiving or accepting any unearned rebate,
 5 refunds, commission preference, patronage dividend, discount or
 6 other unearned consideration, whether in the form of money or
 7 otherwise, as compensation or inducement for referring
 8 patients, clients or customers to a person, irrespective of any
 9 membership, proprietary interest or co-ownership in or with a
 10 person to whom the patients, clients or customers are referred;

11 ~~[(3)]~~ (4) "gender identity" ~~[means a person's~~
 12 ~~self-perception, or perception of that person by another, of~~
 13 ~~the person's identity as a male or female based upon the~~
 14 ~~person's appearance, behavior or physical characteristics that~~
 15 ~~are in accord with or opposed to the person's physical anatomy,~~
 16 ~~chromosomal sex or sex at birth]~~ has the same meaning as set
 17 forth in Section 28-1-2 NMSA 1978;

18 ~~[(4)]~~ (5) "minor" means a person under
 19 eighteen years of age; and

20 ~~[(5)]~~ (6) "sexual orientation" ~~[means~~
 21 ~~heterosexuality, homosexuality or bisexuality, whether actual~~
 22 ~~or perceived]~~ has the same meaning as set forth in Section
 23 28-1-2 NMSA 1978.

24 F. Licensees whose licenses are in a probationary
 25 status shall pay reasonable expenses for maintaining

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1 probationary status, including laboratory costs when laboratory
2 testing of biological fluids [~~are~~] is included as a condition
3 of probation."

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

6 "61-9-13. DENIAL, REVOCATION OR SUSPENSION OF LICENSE.--

7 A. In accordance with the Uniform Licensing Act,
8 the board, by an affirmative vote of at least five of its eight
9 members, shall withhold, deny, revoke or suspend a psychologist
10 or psychologist associate license issued or applied for in
11 accordance with the provisions of the Professional Psychologist
12 Act or otherwise discipline a psychologist or psychologist
13 associate upon proof that the applicant, psychologist or
14 psychologist associate:

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

18 (2) is using a drug, substance or alcoholic
19 beverage to an extent or in a manner dangerous to the
20 psychologist or psychologist associate, any other person or the
21 public or to an extent that the use impairs the psychologist's
22 or psychologist associate's ability to perform the work of a
23 professional psychologist or psychologist associate with safety
24 to the public;

25 (3) has impersonated another person holding a

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1 psychologist or psychologist associate license or allowed
 2 another person to use the psychologist's or psychologist
 3 associate's license;

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

7 (5) has accepted commissions or rebates or
 8 other forms of remuneration for referring clients to other
 9 professional persons;

10 (6) has allowed the psychologist's or
 11 psychologist associate's name or license issued under the
 12 Professional Psychologist Act to be used in connection with a
 13 person who performs psychological services outside of the area
 14 of that person's training, experience or competence;

15 (7) is legally adjudicated insane or mentally
 16 incompetent, the record of such adjudication being conclusive
 17 evidence thereof;

18 (8) has willfully or negligently violated the
 19 provisions of the Professional Psychologist Act;

20 (9) has violated any code of conduct adopted
 21 by the board;

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

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- 1 (11) is incompetent to practice psychology;
- 2 (12) has failed to furnish to the board or its
3 representative information requested by the board;
- 4 (13) has abandoned patients or clients;
- 5 (14) has failed to report to the board adverse
6 action taken against the licensee by:
- 7 (a) another licensing jurisdiction;
- 8 (b) a professional psychologist
9 association of which the psychologist or psychologist associate
10 is or has been a member;
- 11 (c) a government agency; or
- 12 (d) a court for actions or conduct
13 similar to acts or conduct that would constitute grounds for
14 action as described in this subsection;
- 15 (15) has failed to report to the board
16 surrender of a license or other authorization to practice
17 psychology in another jurisdiction or surrender of membership
18 on a health care staff or in a professional association
19 following a disciplinary investigation, or in lieu of or while
20 under a disciplinary investigation, by any of those authorities
21 for acts or conduct that would constitute grounds for action as
22 defined in this subsection;
- 23 (16) has failed to adequately supervise a
24 psychologist associate or a licensed psychologist holding a
25 conditional prescription certificate;

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1 (17) has employed abusive billing practices;

2 (18) has aided or abetted the practice of

3 psychology by a person not licensed by the board; [~~or~~]

4 (19) uses conversion therapy on a minor; or

5 (20) uses aversive therapy or conditioning in
6 conversion therapy.

7 B. A person who has been refused a license or whose
8 license has been restricted or suspended under the provisions
9 of this section may reapply for licensure after more than two
10 years have elapsed from the date the restriction or suspension
11 is terminated.

12 C. As used in this section:

13 (1) "aversive therapy or conditioning" means
14 conduct in behavioral therapy causing physical stimuli in the
15 patient with the aim of reducing unwanted behavior;

16 [~~(1)~~] (2) "conversion therapy" means any
17 practice or treatment that seeks to change a person's sexual
18 orientation or gender identity, including any effort to change
19 behaviors or gender expressions or to eliminate or reduce
20 sexual or romantic attractions or feelings toward persons of
21 the same sex. "Conversion therapy" does not mean:

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

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

7 ~~[(2)]~~ (3) "gender identity" ~~[means a person's~~
8 ~~self-perception, or perception of that person by another, of~~
9 ~~the person's identity as a male or female based upon the~~
10 ~~person's appearance, behavior or physical characteristics that~~
11 ~~are in accord with or opposed to the person's physical anatomy,~~
12 ~~chromosomal sex or sex at birth]~~ has the same meaning as set
13 forth in Section 28-1-2 NMSA 1978;

14 ~~[(3)]~~ (4) "minor" means a person under
15 eighteen years of age; and

16 ~~[(4)]~~ (5) "sexual orientation" ~~[means~~
17 ~~heterosexuality, homosexuality or bisexuality, whether actual~~
18 ~~or perceived]~~ has the same meaning as set forth in Section
19 28-1-2 NMSA 1978."

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

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 the licensee, registrant or
 19 applicant or any other person or the public or to an extent
 20 that the use impairs the licensee's, registrant's or
 21 applicant's ability to perform the work of a counselor or
 22 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;

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; or

16 (13) uses aversive therapy or conditioning in
17 conversion therapy.

18 B. A certified copy of the record of conviction
19 shall be conclusive evidence of such conviction.

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

25 D. A person who violates any provision of the

1 Counseling and Therapy Practice Act is guilty of a misdemeanor
 2 and upon conviction shall be punished as provided in Section
 3 31-19-1 NMSA 1978.

4 E. As used in this section:

5 (1) "aversive therapy or conditioning" means
 6 conduct in behavioral therapy causing physical stimuli in the
 7 patient with the aim of reducing unwanted behavior;

8 ~~(1)~~ (2) "conversion therapy" means any
 9 practice or treatment that seeks to change a person's sexual
 10 orientation or gender identity, including any effort to change
 11 behaviors or gender expressions or to eliminate or reduce
 12 sexual or romantic attractions or feelings toward persons of
 13 the same sex. "Conversion therapy" does not mean:

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

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

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

1 ~~the person's identity as a male or female based upon the~~
2 ~~person's appearance, behavior or physical characteristics that~~
3 ~~are in accord with or opposed to the person's physical anatomy,~~
4 ~~chromosomal sex or sex at birth]~~ has the same meaning as set
5 forth in Section 28-1-2 NMSA 1978;

6 [~~3~~] (4) "minor" means a person under
7 eighteen years of age; and

8 [~~4~~] (5) "sexual orientation" [~~means~~
9 ~~heterosexuality, homosexuality or bisexuality, whether actual~~
10 ~~or perceived]~~ has the same meaning as set forth in Section
11 28-1-2 NMSA 1978."

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

14 "61-31-17. LICENSE DENIAL, SUSPENSION OR REVOCATION.--

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

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

23 (2) has been adjudicated as mentally
24 incompetent by regularly constituted authorities;

25 (3) has been convicted of a felony;

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1 (4) is guilty of unprofessional or unethical
2 conduct;

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

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

9 (7) has been convicted of the commission of
10 any illegal operation;

11 (8) is grossly negligent or incompetent in the
12 practice of social work;

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

21 (10) uses conversion therapy on a minor; or

22 (11) uses aversive therapy or conditioning in
23 conversion therapy.

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 the copy.

4 C. As used in this section:

5 (1) "aversive therapy or conditioning" means
6 conduct in behavioral therapy causing physical stimuli in the
7 patient with the aim of reducing unwanted behavior;

8 ~~[(1)]~~ (2) "conversion therapy" means any
9 practice or treatment that seeks to change a person's sexual
10 orientation or gender identity, including any effort to change
11 behaviors or gender expressions or to eliminate or reduce
12 sexual or romantic attractions or feelings toward persons of
13 the same sex. "Conversion therapy" does not mean:

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

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

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

1 ~~the person's identity as a male or female based upon the~~
 2 ~~person's appearance, behavior or physical characteristics that~~
 3 ~~are in accord with or opposed to the person's physical anatomy,~~
 4 ~~chromosomal sex or sex at birth] has the same meaning as set~~
 5 ~~forth in Section 28-1-2 NMSA 1978;~~

6 [~~3~~] (4) "minor" means a person under
 7 eighteen years of age; and

8 [~~4~~] (5) "sexual orientation" [~~means~~
 9 ~~heterosexuality, homosexuality or bisexuality, whether actual~~
 10 ~~or perceived] has the same meaning as set forth in Section~~
 11 ~~28-1-2 NMSA 1978."~~

underscoring material = new
~~[bracketed material] = delete~~