

1 SENATE BILL 256

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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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 PROVISION
15 OF CONVERSION THERAPY TO ANY PERSON, REGARDLESS OF AGE, SUBJECT
16 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~~]. 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 identity" means a person's self-
22 perception, or perception of that person by another, of the
23 person's identity as a male or female based upon the person's
24 appearance, behavior or physical characteristics that are in
25 accord with or opposed to the person's physical anatomy,

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1 chromosomal sex or sex at birth; and

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

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

7 "61-3-28. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW--
8 APPLICATION OF UNIFORM LICENSING ACT--LIMITATION.--

9 A. In accordance with the procedures contained in
10 the Uniform Licensing Act, the board may deny, revoke or
11 suspend any license held or applied for under the Nursing
12 Practice Act, reprimand or place a licensee on probation or
13 deny, limit or revoke the multistate licensure privilege of a
14 nurse desiring to practice or practicing professional
15 registered nursing or licensed practical nursing as provided in
16 the Nurse Licensure Compact upon grounds that the licensee,
17 applicant or nurse:

18 (1) is guilty of fraud or deceit in procuring
19 or attempting to procure a license or certificate of
20 registration;

21 (2) is convicted of a felony;

22 (3) is unfit or incompetent;

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

25 (5) is mentally incompetent;

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1 (6) is guilty of unprofessional conduct as
2 defined by the rules and regulations adopted by the board
3 pursuant to the Nursing Practice Act;

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

7 (8) was licensed to practice nursing in any
8 jurisdiction, territory or possession of the United States or
9 another country and was the subject of disciplinary action as a
10 licensee for acts similar to acts described in this subsection.
11 A certified copy of the record of the jurisdiction, territory
12 or possession of the United States or another country taking
13 the disciplinary action is conclusive evidence of the action;
14 or

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

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

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

24 D. The board shall not initiate a disciplinary
25 action more than two years after the date that it receives a

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1 complaint.

2 E. The time limitation contained in Subsection D of
3 this section shall not be tolled by any civil or criminal
4 litigation in which the licensee or applicant is a party,
5 arising substantially from the same facts, conduct,
6 transactions or occurrences that would be the basis for the
7 board's disciplinary action.

8 F. The board may recover the costs associated with
9 the investigation and disposition of a disciplinary proceeding
10 from the nurse who is the subject of the proceeding if the
11 nurse is practicing professional registered nursing or licensed
12 practical nursing pursuant to a multistate licensure privilege
13 as provided in the Nurse Licensure Compact.

14 G. As used in this section:

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

20 "Conversion therapy" does not mean:

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

25 (b) mental health services that

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

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

12 [~~(3) "minor" means a person under eighteen~~
13 ~~years of age; and~~

14 ~~(4)] (3) "sexual orientation" means~~
15 heterosexuality, homosexuality or bisexuality, whether actual
16 or perceived."

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

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

24 A. The board may refuse to license and may revoke
25 or suspend a license that has been issued by the board or a

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1 previous board and may fine, censure or reprimand a licensee
2 upon satisfactory proof being made to the board that the
3 applicant for or holder of the license has been guilty of
4 unprofessional or dishonorable conduct. The board may also
5 refuse to license an applicant who is unable to practice as a
6 physician, practice as a physician assistant, an
7 anesthesiologist assistant, a genetic counselor, a naturopathic
8 practitioner or naprapathic practitioner or practice
9 polysomnography, pursuant to Section 61-7-3 NMSA 1978. All
10 proceedings shall be as required by the Uniform Licensing Act
11 or the Impaired Health Care Provider Act.

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

21 C. If evidence fails to establish to the
22 satisfaction of the board that the licensee is competent and is
23 of good moral character or if evidence shows that the licensee
24 has not complied with the terms of probation, the board may
25 revoke or suspend the license. If a license to practice in

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1 this state is suspended, the holder of the license may not
2 practice during the term of suspension. A person whose license
3 has been revoked or suspended by the board and who thereafter
4 practices or attempts or offers to practice in New Mexico,
5 unless the period of suspension has expired or been modified by
6 the board or the license reinstated, is guilty of a felony and
7 shall be punished as provided in Section 61-6-20 NMSA 1978.

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

11 (1) procuring, aiding or abetting an illegal
12 procedure;

13 (2) employing a person to solicit patients for
14 the licensee;

15 (3) representing to a patient that a
16 manifestly incurable condition of sickness, disease or injury
17 can be cured;

18 (4) obtaining a fee by fraud or
19 misrepresentation;

20 (5) willfully or negligently divulging a
21 professional confidence;

22 (6) conviction of an offense punishable by
23 incarceration in a state penitentiary or federal prison or
24 conviction of a misdemeanor associated with the practice of the
25 licensee. A copy of the record of conviction, certified by the

1 clerk of the court entering the conviction, is conclusive
2 evidence;

3 (7) habitual or excessive use of intoxicants
4 or drugs;

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

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

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

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

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

24 (13) manifest incapacity or incompetence to
25 practice as a licensee;

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1 (14) discipline imposed on a licensee by
2 another licensing jurisdiction, including denial, probation,
3 suspension or revocation, based upon acts by the licensee
4 similar to acts described in this section. A certified copy of
5 the record of disciplinary action or sanction taken by another
6 jurisdiction is conclusive evidence of the action;

7 (15) the use of a false, fraudulent or
8 deceptive statement in a document connected with the practice
9 of a licensee;

10 (16) fee splitting;

11 (17) the prescribing, administering or
12 dispensing of narcotic, stimulant or hypnotic drugs for other
13 than accepted therapeutic purposes;

14 (18) conduct likely to deceive, defraud or
15 harm the public;

16 (19) repeated similar negligent acts or a
17 pattern of conduct otherwise described in this section or in
18 violation of a board rule;

19 (20) employing abusive billing practices;

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

22 (a) another licensing jurisdiction;

23 (b) a peer review body;

24 (c) a health care entity;

25 (d) a professional or medical society or

1 association;

2 (e) a governmental agency;

3 (f) a law enforcement agency; or

4 (g) a court for acts or conduct similar
5 to acts or conduct that would constitute grounds for action as
6 defined in this section;

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

16 (23) failure to furnish the board, its
17 investigators or representatives with information requested by
18 the board;

19 (24) abandonment of patients;

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

22 (26) injudicious prescribing, administering or
23 dispensing of a drug or medicine;

24 (27) failure to adequately supervise, as
25 provided by board rule, a medical or surgical assistant or

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1 technician or professional licensee who renders health care;

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

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

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

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

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

20 (33) improper management of medical records,
21 including failure to maintain timely, accurate, legible and
22 complete medical records;

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

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1 the patient or by a legally designated representative of the
2 patient;

3 (35) undertreatment of pain as provided by
4 board rule;

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

9 (37) soliciting or receiving compensation by a
10 physician assistant or anesthesiologist assistant from a person
11 who is not an employer of the assistant;

12 (38) willfully or negligently divulging
13 privileged information or a professional secret; or

14 (39) the use of conversion therapy ~~on a~~
15 ~~minor~~].

16 E. As used in this section:

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

22 "Conversion therapy" does not mean:

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

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1 orientation; or

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

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

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

22 ~~[(4) "minor" means a person under eighteen~~
23 ~~years of age; and~~

24 ~~(5)] (4) "sexual orientation" means~~
25 heterosexuality, homosexuality or bisexuality, whether actual

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1 or perceived.

2 F. Licensees whose licenses are in a probationary
3 status shall pay reasonable expenses for maintaining
4 probationary status, including laboratory costs when laboratory
5 testing of biological fluids ~~[are]~~ is included as a condition
6 of probation."

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

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

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

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

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

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1 professional psychologist or psychologist associate with safety
2 to the public;

3 (3) has impersonated another person holding a
4 psychologist or psychologist associate license or allowed
5 another person to use the psychologist's or psychologist
6 associate's license;

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

10 (5) has accepted commissions or rebates or
11 other forms of remuneration for referring clients to other
12 professional persons;

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

18 (7) is legally adjudicated insane or mentally
19 incompetent, the record of such adjudication being conclusive
20 evidence thereof;

21 (8) has willfully or negligently violated the
22 provisions of the Professional Psychologist Act;

23 (9) has violated any code of conduct adopted
24 by the board;

25 (10) has been disciplined by another state for

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1 acts similar to acts described in this subsection, and a
2 certified copy of the record of discipline of the state
3 imposing the discipline is conclusive evidence;

4 (11) is incompetent to practice psychology;

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

7 (13) has abandoned patients or clients;

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

10 (a) another licensing jurisdiction;

11 (b) a professional psychologist
12 association of which the psychologist or psychologist associate
13 is or has been a member;

14 (c) a government agency; or

15 (d) a court for actions or conduct
16 similar to acts or conduct that would constitute grounds for
17 action as described in this subsection;

18 (15) has failed to report to the board
19 surrender of a license or other authorization to practice
20 psychology in another jurisdiction or surrender of membership
21 on a health care staff or in a professional association
22 following a disciplinary investigation, or in lieu of or while
23 under a disciplinary investigation, by any of those authorities
24 for acts or conduct that would constitute grounds for action as
25 defined in this subsection;

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1 (16) has failed to adequately supervise a
2 psychologist associate or a licensed psychologist holding a
3 conditional prescription certificate;

4 (17) has employed abusive billing practices;

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

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

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

13 C. 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) "minor" means a person under eighteen~~
12 ~~years of age; and~~

13 ~~(4)] (3) "sexual orientation" means~~

14 heterosexuality, homosexuality or bisexuality, whether actual
15 or perceived."

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

18 "61-9A-26. LICENSE AND REGISTRATION--DENIAL, SUSPENSION
19 AND REVOCATION.--

20 A. In accordance with the procedures established by
21 the Uniform Licensing Act, the board may deny, suspend or
22 revoke any license or registration held or applied for under
23 the Counseling and Therapy Practice Act, or take any other
24 action provided for in the Uniform Licensing Act, upon grounds
25 that the licensee, registrant or applicant:

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

5 (2) is adjudicated mentally incompetent by
6 regularly constituted authorities;

7 (3) is found guilty of a felony or misdemeanor
8 involving moral turpitude;

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

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

19 (6) has violated any provision of the
20 Counseling and Therapy Practice Act or regulations adopted by
21 the board;

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

24 (8) willfully or negligently divulges a
25 professional confidence;

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

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

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

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

12 B. A certified copy of the record of conviction
13 shall be conclusive evidence of such conviction.

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

19 D. A person who violates any provision of the
20 Counseling and Therapy Practice Act is guilty of a misdemeanor
21 and upon conviction shall be punished as provided in Section
22 31-19-1 NMSA 1978.

23 E. 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 self-
16 perception, or perception of that person by another, of the
17 person's identity as a male or female based upon the person's
18 appearance, behavior or physical characteristics that are in
19 accord with or opposed to the person's physical anatomy,
20 chromosomal sex or sex at birth; and

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

23 ~~(4)] (3) "sexual orientation" means~~

24 heterosexuality, homosexuality or bisexuality, whether actual
25 or perceived."

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

3 "61-31-17. LICENSE DENIAL, SUSPENSION OR REVOCATION.--

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

8 (1) is guilty of fraud, deceit or
9 misrepresentation in procuring or attempting to procure any
10 license or certification provided for in the Social Work
11 Practice Act;

12 (2) has been adjudicated as mentally
13 incompetent by regularly constituted authorities;

14 (3) has been convicted of a felony;

15 (4) is guilty of unprofessional or unethical
16 conduct;

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

19 (6) has repeatedly and persistently violated
20 any of the provisions of the Social Work Practice Act or
21 regulations of New Mexico or any other state or territory and
22 has been convicted thereof;

23 (7) has been convicted of the commission of
24 any illegal operation;

25 (8) is grossly negligent or incompetent in the

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1 practice of social work;

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

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

11 B. Disciplinary proceedings may be instituted by
12 sworn complaint of any person, including members of the board,
13 and shall conform with the provisions of the Uniform Licensing
14 Act. Any party to a hearing may obtain a copy of the hearing
15 record upon payment of costs for the copy.

16 C. As used in this section:

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

22 "Conversion therapy" does not mean:

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

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1 orientation; or

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

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

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

16 ~~(4)] (3) "sexual orientation" means~~

17 heterosexuality, homosexuality or bisexuality, whether actual
18 or perceived."