

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3872

By: Dunnington

AS INTRODUCED

An Act relating to professions and occupations; creating the Youth Mental Health Protection Act; defining terms; prohibiting conversion therapy for certain persons; amending 59 O.S. 2011, Section 509, as last amended by Section 8, Chapter 492, O.S.L. 2019 (59 O.S. Supp. 2019, Section 509), which relates to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; modifying unprofessional conduct; amending 59 O.S. 2011, Section 567.8, as last amended by Section 9, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019, Section 567.8), which relates to the Nursing Practice Act; modifying criteria for imposition of disciplinary action; amending 59 O.S. 2011, Section 637, as amended by Section 12, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019, Section 637), which relates to the Oklahoma Osteopathic Medicine Act; modifying criteria for imposition of disciplinary action; amending 59 O.S. 2011, Section 1370, as last amended by Section 4, Chapter 267, O.S.L. 2019 (59 O.S. Supp. 2019, Section 1370), which relates to the Psychologists Licensing Act; modifying criteria for imposition of disciplinary action; amending 59 O.S. 2011, Section 1912, as last amended by Section 63, Chapter 363, O.S.L. 2019 (59 O.S. Supp. 2019, Section 1912), which relates to the Licensed Professional Counselors Act; modifying criteria for imposition of disciplinary action; amending 59 O.S. 2011, Section 1925.15, as last amended by Section 65, Chapter 363, O.S.L. 2019 (59 O.S. Supp. 2019, Section 1925.15), which relates to the Marital and Family Therapist Licensure Act; modifying criteria for imposition of disciplinary action; amending 59 O.S. 2011, Section 1941, as last amended by Section 67, Chapter 363, O.S.L. 2019 (59 O.S. Supp. 2019, Section 1941), which relates to the

1 Licensed Behavioral Practitioner Act; modifying
2 criteria for imposition of disciplinary action;
3 providing for codification; and providing an
4 effective date.
5

6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

7 SECTION 1. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1925.19 of Title 59, unless
9 there is created a duplication in numbering, reads as follows:

10 Sections 1 through 3 of this act shall be known and may be cited
11 as the "Youth Mental Health Protection Act".

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1925.20 of Title 59, unless
14 there is created a duplication in numbering, reads as follows:

15 As used in the Youth Mental Health Protection Act:

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

22 a. counseling or mental health services that provide
23 acceptance, support and understanding of a person
24

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

- 3 b. mental health services that facilitate a person's
4 coping, social support, or sexual orientation or
5 gender identity exploration and development,
6 including, but not limited to, an intervention to
7 prevent or address unlawful conduct or unsafe sexual
8 practices, without seeking to change sexual
9 orientation or gender identity;

10 2. "Gender identity" means the gender-related identity,
11 appearance, mannerisms, or other gender-related characteristics of
12 an individual, regardless of the individual's designated sex at
13 birth; and

14 3. "Sexual orientation" means heterosexuality, homosexuality or
15 bisexuality, whether actual or perceived.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1925.21 of Title 59, unless
18 there is created a duplication in numbering, reads as follows:

19 No provider, as defined in Section 725.2 of Title 59 of the
20 Oklahoma Statutes, shall provide conversion therapy to any person
21 under eighteen (18) years of age, or to a consumer, regardless of
22 age, for whom a conservator or guardian has been appointed. The
23 provision of conversion therapy in violation of the provisions of
24

1 the Youth Mental Health Protection Act shall be grounds for
2 disciplinary action by the provider's licensing board.

3 SECTION 4. AMENDATORY 59 O.S. 2011, Section 509, as last
4 amended by Section 8, Chapter 492, O.S.L. 2019 (59 O.S. Supp. 2019,
5 Section 509), is amended to read as follows:

6 Section 509. The words "unprofessional conduct" as used in
7 Sections 481 through 518.1 of this title are hereby declared to
8 include, but shall not be limited to, the following:

- 9 1. Procuring, aiding or abetting a criminal operation;
- 10 2. The obtaining of any fee or offering to accept any fee,
11 present or other form of remuneration whatsoever, on the assurance
12 or promise that a manifestly incurable disease can or will be cured;
- 13 3. Willfully betraying a professional secret to the detriment
14 of the patient;
- 15 4. Habitual intemperance or the habitual use of habit-forming
16 drugs;
- 17 5. Conviction or confession of, or plea of guilty, nolo
18 contendere, no contest or Alford plea to a felony or any offense
19 involving moral turpitude;
- 20 6. All advertising of medical business in which statements are
21 made which are grossly untrue or improbable and calculated to
22 mislead the public;
- 23
- 24

1 7. Conviction or confession of, or plea of guilty, nolo
2 contendere, no contest or Alford plea to a crime involving violation
3 of:

4 a. the antinarcotic or prohibition laws and regulations
5 of the federal government,

6 b. the laws of this state,

7 c. State Board of Health rules, or

8 d. a determination by a judge or jury;

9 8. Dishonorable or immoral conduct which is likely to deceive,
10 defraud, or harm the public;

11 9. The commission of any act which is a violation of the
12 criminal laws of any state when such act is connected with the
13 physician's practice of medicine. A complaint, indictment or
14 confession of a criminal violation shall not be necessary for the
15 enforcement of this provision. Proof of the commission of the act
16 while in the practice of medicine or under the guise of the practice
17 of medicine shall be unprofessional conduct;

18 10. Failure to keep complete and accurate records of purchase
19 and disposal of controlled drugs or of narcotic drugs;

20 11. The writing of false or fictitious prescriptions for any
21 drugs or narcotics declared by the laws of this state to be
22 controlled or narcotic drugs;

23 12. Prescribing or administering a drug or treatment without
24 sufficient examination and the establishment of a valid physician-

1 patient relationship and not prescribing in a safe, medically
2 accepted manner;

3 13. The violation, or attempted violation, direct or indirect,
4 of any of the provisions of the Oklahoma Allopathic Medical and
5 Surgical Licensure and Supervision Act, either as a principal,
6 accessory or accomplice;

7 14. Aiding or abetting, directly or indirectly, the practice of
8 medicine by any person not duly authorized under the laws of this
9 state;

10 15. The inability to practice medicine with reasonable skill
11 and safety to patients by reason of age, illness, drunkenness,
12 excessive use of drugs, narcotics, chemicals, or any other type of
13 material or as a result of any mental or physical condition. In
14 enforcing this section the State Board of Medical Licensure and
15 Supervision may, upon probable cause, request a physician to submit
16 to a mental or physical examination by physicians designated by it.
17 If the physician refuses to submit to the examination, the Board
18 shall issue an order requiring the physician to show cause why the
19 physician will not submit to the examination and shall schedule a
20 hearing on the order within thirty (30) days after notice is served
21 on the physician, exclusive of the day of service. The physician
22 shall be notified by either personal service or by certified mail
23 with return receipt requested. At the hearing, the physician and
24 the physician's attorney are entitled to present any testimony and

1 other evidence to show why the physician should not be required to
2 submit to the examination. After a complete hearing, the Board
3 shall issue an order either requiring the physician to submit to the
4 examination or withdrawing the request for examination. The medical
5 license of a physician ordered to submit for examination may be
6 suspended until the results of the examination are received and
7 reviewed by the Board;

8 16. a. Prescribing, dispensing or administering of controlled
9 substances or narcotic drugs in excess of the amount
10 considered good medical practice,

11 b. prescribing, dispensing or administering controlled
12 substances or narcotic drugs without medical need in
13 accordance with pertinent licensing board standards,
14 or

15 c. prescribing, dispensing or administering opioid drugs
16 in excess of the maximum dosage authorized under
17 Section 2-309I of Title 63 of the Oklahoma Statutes;

18 17. Engaging in physical conduct with a patient which is sexual
19 in nature, or in any verbal behavior which is seductive or sexually
20 demeaning to a patient;

21 18. Failure to maintain an office record for each patient which
22 accurately reflects the evaluation, treatment, and medical necessity
23 of treatment of the patient;

1 19. Failure to provide necessary ongoing medical treatment when
2 a doctor-patient relationship has been established, which
3 relationship can be severed by either party providing a reasonable
4 period of time is granted; ~~or~~

5 20. Failure to provide a proper and safe medical facility
6 setting and qualified assistive personnel for a recognized medical
7 act, including but not limited to an initial in-person patient
8 examination, office surgery, diagnostic service or any other medical
9 procedure or treatment. Adequate medical records to support
10 diagnosis, procedure, treatment or prescribed medications must be
11 produced and maintained; or

12 21. Providing conversion therapy, as defined in Section 2 of
13 this act, to any person under eighteen (18) years of age, or to a
14 consumer, regardless of age, for whom a conservator or guardian has
15 been appointed.

16 SECTION 5. AMENDATORY 59 O.S. 2011, Section 567.8, as
17 last amended by Section 9, Chapter 428, O.S.L. 2019 (59 O.S. Supp.
18 2019, Section 567.8), is amended to read as follows:

19 Section 567.8 A. The Oklahoma Board of Nursing shall have the
20 power to take any or all of the following actions:

21 1. To deny, revoke or suspend any:

22 a. licensure to practice as a Licensed Practical Nurse,
23 single-state or multistate,
24

- b. licensure to practice as a Registered Nurse, single-state or multistate,
- c. multistate privilege to practice in Oklahoma,
- d. licensure to practice as an Advanced Practice Registered Nurse,
- e. certification to practice as an Advanced Unlicensed Assistant,
- f. authorization for prescriptive authority, or
- g. authority to order, select, obtain and administer drugs;

2. To assess administrative penalties; and

3. To otherwise discipline applicants, licensees or Advanced Unlicensed Assistants.

B. The Board shall impose a disciplinary action against the person pursuant to the provisions of subsection A of this section upon proof that the person:

1. Is guilty of deceit or material misrepresentation in procuring or attempting to procure:

- a. a license to practice registered nursing, licensed practical nursing, or a license to practice advanced practice registered nursing with or without either prescriptive authority recognition or authorization to order, select, obtain and administer drugs, or
- b. certification as an Advanced Unlicensed Assistant;

1 2. Is guilty of a felony, or any offense reasonably related to
2 the qualifications, functions or duties of any licensee or Advanced
3 Unlicensed Assistant, or any offense an essential element of which
4 is fraud, dishonesty, or an act of violence, or for any offense
5 involving moral turpitude, whether or not sentence is imposed, or
6 any conduct resulting in the revocation of a deferred or suspended
7 sentence or probation imposed pursuant to such conviction;

8 3. Fails to adequately care for patients or to conform to the
9 minimum standards of acceptable nursing or Advanced Unlicensed
10 Assistant practice that, in the opinion of the Board, unnecessarily
11 exposes a patient or other person to risk of harm;

12 4. Is intemperate in the use of alcohol or drugs, which use the
13 Board determines endangers or could endanger patients;

14 5. Exhibits through a pattern of practice or other behavior
15 actual or potential inability to practice nursing with sufficient
16 knowledge or reasonable skills and safety due to impairment caused
17 by illness, use of alcohol, drugs, chemicals or any other substance,
18 or as a result of any mental or physical condition, including
19 deterioration through the aging process or loss of motor skills,
20 mental illness, or disability that results in inability to practice
21 with reasonable judgment, skill or safety; provided, however, the
22 provisions of this paragraph shall not be utilized in a manner that
23 conflicts with the provisions of the Americans with Disabilities
24 Act;

1 6. Has been adjudicated as mentally incompetent, mentally ill,
2 chemically dependent or dangerous to the public or has been
3 committed by a court of competent jurisdiction, within or without
4 this state;

5 7. Is guilty of unprofessional conduct as defined in the rules
6 of the Board;

7 8. Is guilty of any act that jeopardizes a patient's life,
8 health or safety as defined in the rules of the Board;

9 9. Violated a rule promulgated by the Board, an order of the
10 Board, or a state or federal law relating to the practice of
11 registered, practical or advanced practice registered nursing or
12 advanced unlicensed assisting, or a state or federal narcotics or
13 controlled dangerous substance law including, but not limited to,
14 prescribing, dispensing or administering opioid drugs in excess of
15 the maximum limits authorized in Section 2-309I of Title 63 of the
16 Oklahoma Statutes;

17 10. Has had disciplinary actions taken against the individual's
18 registered or practical nursing license, advanced unlicensed
19 assistive certification, or any professional or occupational
20 license, registration or certification in this or any state,
21 territory or country;

22 11. Has defaulted or been terminated from the peer assistance
23 program for any reason;

1 12. Fails to maintain professional boundaries with patients, as
2 defined in the Board rules; ~~or~~

3 13. Engages in sexual misconduct, as defined in Board rules,
4 with a current or former patient or key party, inside or outside the
5 health care setting; or

6 14. Provides conversion therapy, as defined in Section 2 of
7 this act, to any person under eighteen (18) years of age, or to a
8 consumer, regardless of age, for whom a conservator or guardian has
9 been appointed.

10 C. Any person who supplies the Board information in good faith
11 shall not be liable in any way for damages with respect to giving
12 such information.

13 D. The Board may cause to be investigated all reported
14 violations of the Oklahoma Nursing Practice Act. Information
15 obtained during an investigation into possible violations of the
16 Oklahoma Nursing Practice Act shall be kept confidential, but may be
17 introduced by the state in administrative proceedings before the
18 Board, whereupon the information admitted becomes a public record.
19 Public records maintained by the agency are administrative records,
20 not public civil or criminal records.

21 Confidential investigative records shall not be subject to
22 discovery or subpoena in any civil or criminal proceeding, except
23 that the Board may give such information to law enforcement and
24 other state agencies as necessary and appropriate in the discharge

1 of the duties of that agency and only under circumstances that
2 ensure against unauthorized access to the information.

3 E. The Board may authorize the Executive Director to issue a
4 confidential letter of concern to a licensee when evidence does not
5 warrant formal proceedings, but the Executive Director has noted
6 indications of possible errant conduct that could lead to serious
7 consequences and formal action.

8 F. All individual proceedings before the Board shall be
9 conducted in accordance with the Administrative Procedures Act.

10 G. At a hearing the accused shall have the right to appear
11 either personally or by counsel, or both, to produce witnesses and
12 evidence on behalf of the accused, to cross-examine witnesses and to
13 have subpoenas issued by the designated Board staff. If the accused
14 is found guilty of the charges the Board may refuse to issue a
15 renewal of license to the applicant, revoke or suspend a license, or
16 otherwise discipline a licensee.

17 H. A person whose license is revoked may not apply for
18 reinstatement during the time period set by the Board. The Board on
19 its own motion may at any time reconsider its action.

20 I. Any person whose license is revoked or who applies for
21 renewal of registration and who is rejected by the Board shall have
22 the right to appeal from such action pursuant to the Administrative
23 Procedures Act.

1 J. 1. Any person who has been determined by the Board to have
2 violated any provisions of the Oklahoma Nursing Practice Act or any
3 rule or order issued pursuant thereto shall be liable for an
4 administrative penalty not to exceed Five Hundred Dollars (\$500.00)
5 for each count for which any holder of a certificate or license has
6 been determined to be in violation of the Oklahoma Nursing Practice
7 Act or any rule promulgated or order issued pursuant thereto.

8 2. The amount of the penalty shall be assessed by the Board
9 pursuant to the provisions of this section, after notice and an
10 opportunity for hearing is given to the accused. In determining the
11 amount of the penalty, the Board shall include, but not be limited
12 to, consideration of the nature, circumstances, and gravity of the
13 violation and, with respect to the person found to have committed
14 the violation, the degree of culpability, the effect on ability of
15 the person to continue to practice, and any show of good faith in
16 attempting to achieve compliance with the provisions of the Oklahoma
17 Nursing Practice Act.

18 K. The Board shall retain jurisdiction over any person issued a
19 license, certificate or temporary license pursuant to the Oklahoma
20 Nursing Practice Act, regardless of whether the license, certificate
21 or temporary license has expired, lapsed or been relinquished during
22 or after the alleged occurrence or conduct prescribed by the
23 Oklahoma Nursing Practice Act.
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1 L. In the event disciplinary action is imposed, any person so
2 disciplined shall be responsible for any and all costs associated
3 with satisfaction of the discipline imposed.

4 M. In the event disciplinary action is imposed in an
5 administrative proceeding, the Board shall have the authority to
6 recover the monies expended by the Board in pursuing any
7 disciplinary action, including but not limited to costs of
8 investigation, probation or monitoring fees, administrative costs,
9 witness fees, attorney fees and court costs. This authority shall
10 be in addition to the Board's authority to impose discipline as set
11 out in subsection A of this section.

12 N. The Executive Director shall immediately suspend the license
13 of any person upon proof that the person has been sentenced to a
14 period of continuous incarceration serving a penal sentence for
15 commission of a misdemeanor or felony. The suspension shall remain
16 in effect until the Board acts upon the licensee's written
17 application for reinstatement of the license.

18 O. When a majority of the officers of the Board, which
19 constitutes the President, Vice President and Secretary/Treasurer,
20 find that preservation of the public health, safety or welfare
21 requires immediate action, summary suspension of licensure or
22 certification may be ordered before the filing of a sworn complaint
23 or at any other time before the outcome of an individual proceeding.
24 The summary suspension of licensure or certification may be ordered

1 without compliance with the requirements of the Oklahoma Open
2 Meeting Act. Within seven (7) days after the summary suspension,
3 the licensee shall be notified by letter that summary suspension has
4 occurred. The summary suspension letter shall include notice of the
5 date of the proposed hearing to be held in accordance with Oklahoma
6 Administrative Code 485:10-11-2 and the Administrative Procedures
7 Act, within ninety (90) days of the date of the summary suspension
8 letter, and shall be signed by one of the Board officers.

9 P. In any proceeding in which the Board is required to serve an
10 order on an individual, the Board may send such material to the
11 individual's address of record with the Board. If the order is
12 returned with a notation by the United States Postal Service
13 indicating that it is undeliverable for any reason, and the records
14 of the Board indicate that the Board has not received any change of
15 address since the order was sent, as required by the rules of the
16 Board, the order and any subsequent material relating to the same
17 matter sent to the most recent address on file with the Board shall
18 be deemed by the court as having been legally served for all
19 purposes.

20 SECTION 6. AMENDATORY 59 O.S. 2011, Section 637, as
21 amended by Section 12, Chapter 428, O.S.L. 2019 (59 O.S. Supp. 2019,
22 Section 637), is amended to read as follows:

23 Section 637. A. The State Board of Osteopathic Examiners may
24 refuse to admit a person to an examination or may refuse to issue or

1 reinstate or may suspend or revoke any license issued or reinstated
2 by the Board upon proof that the applicant or holder of such a
3 license:

4 1. Has obtained a license, license renewal or authorization to
5 sit for an examination, as the case may be, through fraud,
6 deception, misrepresentation or bribery; or has been granted a
7 license, license renewal or authorization to sit for an examination
8 based upon a material mistake of fact;

9 2. Has engaged in the use or employment of dishonesty, fraud,
10 misrepresentation, false promise, false pretense, unethical conduct
11 or unprofessional conduct, as may be determined by the Board, in the
12 performance of the functions or duties of an osteopathic physician,
13 including but not limited to the following:

- 14 a. obtaining or attempting to obtain any fee, charge,
15 tuition or other compensation by fraud, deception or
16 misrepresentation; willfully and continually
17 overcharging or overtreating patients; or charging for
18 visits to the physician's office which did not occur
19 or for services which were not rendered,
- 20 b. using intimidation, coercion or deception to obtain or
21 retain a patient or discourage the use of a second
22 opinion or consultation,
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- c. willfully performing inappropriate or unnecessary treatment, diagnostic tests or osteopathic medical or surgical services,
- d. delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform them, noting that delegation may only occur within an appropriate doctor-patient relationship, wherein a proper patient record is maintained including, but not limited to, at the minimum, a current history and physical,
- e. misrepresenting that any disease, ailment, or infirmity can be cured by a method, procedure, treatment, medicine or device,
- f. acting in a manner which results in final disciplinary action by any professional society or association or hospital or medical staff of such hospital in this or any other state, whether agreed to voluntarily or not, if the action was in any way related to professional conduct, professional competence, malpractice or any other violation of the Oklahoma Osteopathic Medicine Act,
- g. signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment

1 without sufficient examination or the establishment of
2 a physician-patient relationship, or for other than
3 medically accepted therapeutic or experimental or
4 investigational purpose duly authorized by a state or
5 federal agency, or not in good faith to relieve pain
6 and suffering, or not to treat an ailment, physical
7 infirmity or disease, or violating any state or
8 federal law on controlled dangerous substances
9 including, but not limited to, prescribing, dispensing
10 or administering opioid drugs in excess of the maximum
11 limits authorized in Section 2-309I of Title 63 of the
12 Oklahoma Statutes,

13 h. engaging in any sexual activity within a physician-
14 patient relationship,

15 i. terminating the care of a patient without adequate
16 notice or without making other arrangements for the
17 continued care of the patient,

18 j. failing to furnish a copy of a patient's medical
19 records upon a proper request from the patient or
20 legal agent of the patient or another physician; or
21 failing to comply with any other law relating to
22 medical records,

23 k. failing to comply with any subpoena issued by the
24 Board,

1 1. violating a probation agreement or order with this
2 Board or any other agency, and

3 m. failing to keep complete and accurate records of
4 purchase and disposal of controlled drugs or narcotic
5 drugs;

6 3. Has engaged in gross negligence, gross malpractice or gross
7 incompetence;

8 4. Has engaged in repeated acts of negligence, malpractice or
9 incompetence;

10 5. Has been finally adjudicated and found guilty, or entered a
11 plea of guilty or nolo contendere in a criminal prosecution, for any
12 offense reasonably related to the qualifications, functions or
13 duties of an osteopathic physician, or for any offense involving
14 moral turpitude, whether or not sentence is imposed, and regardless
15 of the pendency of an appeal;

16 6. Has had the authority to engage in the activities regulated
17 by the Board revoked, suspended, restricted, modified or limited, or
18 has been reprimanded, warned or censured, probated or otherwise
19 disciplined by any other state or federal agency whether or not
20 voluntarily agreed to by the physician including, but not limited
21 to, the denial of licensure, surrender of the license, permit or
22 authority, allowing the license, permit or authority to expire or
23 lapse, or discontinuing or limiting the practice of osteopathic
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1 medicine pending disposition of a complaint or completion of an
2 investigation;

3 7. Has violated, or failed to comply with provisions of any act
4 or regulation administered by the Board;

5 8. Is incapable, for medical or psychiatric or any other good
6 cause, of discharging the functions of an osteopathic physician in a
7 manner consistent with the public's health, safety and welfare;

8 9. Has been guilty of advertising by means of knowingly false
9 or deceptive statements;

10 10. Has been guilty of advertising, practicing, or attempting
11 to practice under a name other than one's own;

12 11. Has violated or refused to comply with a lawful order of
13 the Board;

14 12. Has been guilty of habitual drunkenness, or habitual
15 addiction to the use of morphine, cocaine or other habit-forming
16 drugs;

17 13. Has been guilty of personal offensive behavior, which would
18 include, but not be limited to obscenity, lewdness, molestation and
19 other acts of moral turpitude; ~~and~~

20 14. Has been adjudicated to be insane, or incompetent, or
21 admitted to an institution for the treatment of psychiatric
22 disorders; or

23 15. Has provided conversion therapy, as defined in Section 2 of
24 this act, to any person under eighteen (18) years of age, or to a

1 consumer, regardless of age, for whom a conservator or guardian has
2 been appointed.

3 B. The State Board of Osteopathic Examiners shall neither
4 refuse to renew, nor suspend, nor revoke any license, however, for
5 any of these causes, unless the person accused has been given at
6 least twenty (20) days' notice in writing of the charge against him
7 or her and a public hearing by the Board provided, three-fourths
8 (3/4) of a quorum present at a meeting may vote to suspend a license
9 in an emergency situation if the licensee affected is provided a
10 public hearing within thirty (30) days of the emergency suspension.

11 C. The State Board of Osteopathic Examiners shall have the
12 power to order or subpoena the attendance of witnesses, the
13 inspection of records and premises and the production of relevant
14 books and papers for the investigation of matters that may come
15 before them. The presiding officer of the Board shall have the
16 authority to compel the giving of testimony as is conferred on
17 courts of justice.

18 D. Any osteopathic physician in the State of Oklahoma whose
19 license to practice osteopathic medicine is revoked or suspended
20 under this section shall have the right to seek judicial review of a
21 ruling of the Board pursuant to the Administrative Procedures Act.

22 E. The Board may enact rules and regulations pursuant to the
23 Administrative Procedures Act setting out additional acts of
24 unprofessional conduct~~7~~1 which acts shall be grounds for refusal to

1 issue or reinstate, or for action to condition, suspend or revoke a
2 license.

3 SECTION 7. AMENDATORY 59 O.S. 2011, Section 1370, as
4 last amended by Section 4, Chapter 267, O.S.L. 2019 (59 O.S. Supp.
5 2019, Section 1370), is amended to read as follows:

6 Section 1370. A. A psychologist and any other persons under
7 the supervision of the psychologist shall conduct their professional
8 activities in conformity with ethical and professional standards
9 promulgated by the State Board of Examiners of Psychologists by
10 rule.

11 B. The Board shall have the power and duty to suspend, place on
12 probation, require remediation, revoke any license to practice
13 psychology, impose an administrative fine not to exceed Five
14 Thousand Dollars (\$5,000.00) per incident, or assess reasonable
15 costs or to take any other action specified in the rules whenever
16 the Board shall find by clear and convincing evidence that the
17 psychologist has engaged in any of the following acts or offenses:

18 1. Fraud in applying for or procuring a license to practice
19 psychology;

20 2. Immoral, unprofessional, or dishonorable conduct as defined
21 in the rules promulgated by the Board;

22 3. Practicing psychology in a manner as to endanger the welfare
23 of clients or patients;

1 4. Conviction of a felony crime that substantially relates to
2 the business practices of psychology or poses a reasonable threat to
3 public safety;

4 5. Harassment, intimidation, or abuse, sexual or otherwise, of
5 a client or patient;

6 6. Engaging in sexual intercourse or other sexual contact with
7 a client or patient;

8 7. Use of repeated untruthful, deceptive or improbable
9 statements concerning the licensee's qualifications or the effects
10 or results of proposed treatment, including practicing outside of
11 the psychologist's professional competence established by education,
12 training, and experience;

13 8. Gross malpractice or repeated malpractice or gross
14 negligence in the practice of psychology;

15 9. Aiding or abetting the practice of psychology by any person
16 not approved by the Board or not otherwise exempt from the
17 provisions of Section 1351 et seq. of this title;

18 10. Conviction of or pleading guilty or nolo contendere to
19 fraud in filing Medicare or Medicaid claims or in filing claims with
20 any third-party payor. A copy of the record of plea or conviction,
21 certified by the clerk of the court entering the plea or conviction,
22 shall be conclusive evidence of the plea or conviction;

23 11. Exercising undue influence in a manner to exploit the
24 client, patient, student, or supervisee for financial advantage

beyond the payment of professional fees or for other personal advantage to the practitioner or a third party;

12. The suspension or revocation by another state of a license to practice psychology. A certified copy of the record of suspension or revocation of the state making such a suspension or revocation shall be conclusive evidence thereof;

13. Refusal to appear before the Board after having been ordered to do so in writing by the executive officer or chair of the Board;

14. Making any fraudulent or untrue statement to the Board;

15. Violation of the code of ethics adopted in the rules and regulations of the Board; ~~and~~

16. Inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition; or

17. Providing conversion therapy, as defined in Section 2 of this act, to any person under eighteen (18) years of age, or to a consumer, regardless of age, for whom a conservator or guardian has been appointed.

C. No license shall be suspended or revoked nor the licensee placed on probation or reprimanded until the licensee has been given an opportunity for a hearing before the Board pursuant to the provisions of subsection D of this section. Whenever the Board

1 determines that there has been a violation of any of the provisions
2 of the Psychologists Licensing Act or of any order of the Board, it
3 shall give written notice to the alleged violator specifying the
4 cause of complaint. The notice shall require that the alleged
5 violator appear before the Board at a time and place specified in
6 the notice and answer the charges specified in the notice. The
7 notice shall be delivered to the alleged violator in accordance with
8 the provisions of subsection E of this section not less than ten
9 (10) days before the time set for the hearing.

10 D. On the basis of the evidence produced at the hearing, the
11 Board shall make findings of fact and conclusions of law and enter
12 an order thereon in writing or stated in the record. A final order
13 adverse to the alleged violator shall be in writing. An order
14 stated in the record shall become effective immediately, provided
15 the Board gives written notice of the order to the alleged violator
16 and to the other persons who appeared at the hearing and made
17 written request for notice of the order. If the hearing is held
18 before any person other than the Board itself, such person shall
19 transmit the record of the hearing together with recommendations for
20 findings of fact and conclusions of law to the Board, which shall
21 thereupon enter its order. The Board may enter its order on the
22 basis of such record or, before issuing its order, require
23 additional hearings or further evidence to be presented. The order
24 of the Board shall become final and binding on all parties unless

1 appealed to the district court as provided for in the Administrative
2 Procedures Act.

3 E. Except as otherwise expressly provided for by law, any
4 notice, order, or other instrument issued by or pursuant to the
5 authority of the Board may be served on any person affected, by
6 publication or by mailing a copy of the notice, order, or other
7 instrument by registered mail directed to the person affected at the
8 last-known post office address of such person as shown by the files
9 or records of the Board. Proof of the service shall be made as in
10 case of service of a summons or by publication in a civil action.
11 Proof of mailing may be made by the affidavit of the person who
12 mailed the notice. Proof of service shall be filed in the office of
13 the Board.

14 F. Every certificate or affidavit of service made and filed as
15 provided for in this section shall be prima facie evidence of the
16 facts stated therein, and a certified copy thereof shall have same
17 force and effect as the original certificate or affidavit of
18 service.

19 G. If the psychologist fails or refuses to appear, the Board
20 may proceed to hearing and determine the charges in his or her
21 absence. If the psychologist pleads guilty, or if upon hearing the
22 charges, a majority of the Board finds them to be true, the Board
23 may enter an order suspending or revoking the license of the
24 psychologist, reprimanding the psychologist, or placing the

1 psychologist on probation or any combination of penalties authorized
2 by the provisions of this section.

3 H. The secretary of the Board shall preserve a record of all
4 proceedings of the hearings and shall furnish a transcript of the
5 hearings to the defendant upon request. The defendant shall prepay
6 the actual cost of preparing the transcript.

7 I. Upon a vote of four of its members, the Board may restore a
8 license which has been revoked, reduce the period of suspension or
9 probation, or withdraw a reprimand.

10 J. As used in this section:

11 1. "Substantially relates" means the nature of criminal conduct
12 for which the person was convicted has a direct bearing on the
13 fitness or ability to perform one or more of the duties or
14 responsibilities necessarily related to the occupation; and

15 2. "Poses a reasonable threat" means the nature of criminal
16 conduct for which the person was convicted involved an act or threat
17 of harm against another and has a bearing on the fitness or ability
18 to serve the public or work with others in the occupation.

19 K. The Board may keep confidential its investigative files.

20 L. The forfeiture, nonrenewal, surrender or voluntary
21 relinquishment of a license by a licensee shall not bar jurisdiction
22 by the Board to proceed with any investigation, action or proceeding
23 to revoke, suspend, condition or limit the licensee's license or
24 fine the licensee.

1 SECTION 8. AMENDATORY 59 O.S. 2011, Section 1912, as
2 last amended by Section 63, Chapter 363, O.S.L. 2019 (59 O.S. Supp.
3 2019, Section 1912), is amended to read as follows:

4 Section 1912. A. The State Board of Behavioral Health
5 Licensure may deny, revoke, suspend or place on probation any
6 license or specialty designation issued pursuant to the provisions
7 of the Licensed Professional Counselors Act to a licensed
8 professional counselor, if the person has:

9 1. Been convicted of a felony crime that substantially relates
10 to the practice of counseling and poses a reasonable threat to
11 public safety;

12 2. Engaged in fraud or deceit in connection with services
13 rendered or in establishing needed qualifications pursuant to the
14 provisions of this act;

15 3. Knowingly aided or abetted a person not licensed pursuant to
16 these provisions in representing himself as a licensed professional
17 counselor in this state;

18 4. Engaged in unprofessional conduct as defined by the rules
19 established by the Board;

20 5. Engaged in negligence or wrongful actions in the performance
21 of his or her duties; ~~or~~

22 6. Misrepresented any information required in obtaining a
23 license; or
24

1 7. Provided conversion therapy, as defined in Section 2 of this
2 act, to any person under eighteen (18) years of age, or to a
3 consumer, regardless of age, for whom a conservator or guardian has
4 been appointed.

5 B. If the Board determines that a felony conviction of an
6 applicant renders the convicted applicant unfit to practice
7 counseling, the Board shall provide notice and opportunity to the
8 applicant, by certified mail at the last-known address, for an
9 administrative hearing to contest such determination before the
10 Board may deny the application. The request shall be made by the
11 applicant within fifteen (15) days of receipt of the notice.

12 C. No license or specialty designation shall be suspended or
13 revoked, nor a licensed professional counselor placed on probation
14 until notice is served upon the licensed professional counselor and
15 a hearing is held in conformity with Article II of the
16 Administrative Procedures Act.

17 D. As used in this section:

18 1. "Substantially relates" means the nature of criminal conduct
19 for which the person was convicted has a direct bearing on the
20 fitness or ability to perform one or more of the duties or
21 responsibilities necessarily related to the occupation; and

22 2. "Poses a reasonable threat" means the nature of criminal
23 conduct for which the person was convicted involved an act or threat
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1 of harm against another and has a bearing on the fitness or ability
2 to serve the public or work with others in the occupation.

3 SECTION 9. AMENDATORY 59 O.S. 2011, Section 1925.15, as
4 last amended by Section 65, Chapter 363, O.S.L. 2019 (59 O.S. Supp.
5 2019, Section 1925.15), is amended to read as follows:

6 Section 1925.15 A. The State Board of Behavioral Health
7 Licensure may deny, revoke, suspend or place on probation any
8 license issued subject to the provisions of the Marital and Family
9 Therapist Licensure Act, if the person has:

10 1. Been convicted of a felony crime that substantially relates
11 to the practice of counseling and poses a reasonable threat to
12 public safety;

13 2. Violated ethical standards of such a nature as to render the
14 person found by the Board to have engaged in such violation unfit to
15 practice marital and family therapy;

16 3. Misrepresented any information required in obtaining a
17 license;

18 4. Engaged in fraud or deceit in connection with services
19 rendered or in establishing needed qualifications pursuant to the
20 provisions of the Marital and Family Therapist Licensure Act;

21 5. Knowingly aided or abetted a person not licensed pursuant to
22 these provisions in representing himself or herself as a licensed
23 marital and family therapist in this state;

1 6. Engaged in unprofessional conduct as defined by the rules
2 promulgated by the Board; ~~or~~

3 7. Engaged in negligence or wrongful actions in the performance
4 of the duties of such person; or

5 8. Provided conversion therapy, as defined in Section 2 of this
6 act, to any person under eighteen (18) years of age, or to a
7 consumer, regardless of age, for whom a conservator or guardian has
8 been appointed.

9 B. If the Board determines that a felony conviction of an
10 applicant renders the convicted applicant unfit to practice
11 counseling, the Board shall provide notice and opportunity to the
12 applicant, by certified mail at the last-known address, for an
13 administrative hearing to contest such determination before the
14 Board may deny the application. The request shall be made by the
15 applicant within fifteen (15) days of receipt of the notice.

16 C. No license shall be suspended, revoked or placed on
17 probation until notice is served upon the licensed marital and
18 family therapist and a hearing is held in such manner as is required
19 by the Marital and Family Therapist Licensure Act.

20 D. Any person who is determined by the Board to have violated
21 any of the provisions of the Marital and Family Therapist Licensure
22 Act or any rule promulgated or order issued pursuant thereto may be
23 subject to an administrative penalty. The maximum fine shall not
24 exceed Ten Thousand Dollars (\$10,000.00). All administrative

1 penalties collected pursuant to the Marital and Family Therapist
2 Licensure Act shall be deposited into the Licensed Marital and
3 Family Therapist Revolving Fund. Administrative penalties imposed
4 pursuant to this subsection shall be enforceable in the district
5 courts of this state.

6 E. As used in this section:

7 1. "Substantially relates" means the nature of criminal conduct
8 for which the person was convicted has a direct bearing on the
9 fitness or ability to perform one or more of the duties or
10 responsibilities necessarily related to the occupation; and

11 2. "Poses a reasonable threat" means the nature of criminal
12 conduct for which the person was convicted involved an act or threat
13 of harm against another and has a bearing on the fitness or ability
14 to serve the public or work with others in the occupation.

15 SECTION 10. AMENDATORY 59 O.S. 2011, Section 1941, as
16 last amended by Section 67, Chapter 363, O.S.L. 2019 (59 O.S. Supp.
17 2019, Section 1941), is amended to read as follows:

18 Section 1941. A. The State Board of Behavioral Health
19 Licensure may deny, revoke, suspend, or place on probation any
20 license or specialty designation issued pursuant to the provisions
21 of the Licensed Behavioral Practitioner Act to a licensed behavioral
22 practitioner, if the person has:

1 1. Been convicted of a felony crime that substantially relates
2 to the practice of behavioral health and poses a reasonable threat
3 to public safety;

4 2. Engaged in fraud or deceit in connection with services
5 rendered or in establishing needed qualifications pursuant to the
6 provisions of this act;

7 3. Knowingly aided or abetted a person not licensed pursuant to
8 these provisions in representing himself or herself as a licensed
9 behavioral practitioner in this state;

10 4. Engaged in unprofessional conduct as defined by the rules
11 established by the Board;

12 5. Engaged in negligence or wrongful actions in the performance
13 of the licensee's duties; ~~or~~

14 6. Misrepresented any information required in obtaining a
15 license; or

16 7. Provided conversion therapy, as defined in Section 2 of this
17 act, to any person under eighteen (18) years of age, or to a
18 consumer, regardless of age, for whom a conservator or guardian has
19 been appointed.

20 B. If the Board determines that a felony conviction of an
21 applicant renders the convicted applicant unfit to practice
22 counseling, the Board shall provide notice and opportunity to the
23 applicant, by certified mail at the last-known address, for an
24 administrative hearing to contest such determination before the

1 Board may deny the application. The request shall be made by the
2 applicant within fifteen (15) days of receipt of the notice.

3 C. No license or specialty designation shall be suspended or
4 revoked, nor a licensed behavioral practitioner placed on probation,
5 until notice is served upon the licensed behavioral practitioner and
6 a hearing is held in conformity with Article II of the
7 Administrative Procedures Act.

8 D. As used in this section:

9 1. "Substantially relates" means the nature of criminal conduct
10 for which the person was convicted has a direct bearing on the
11 fitness or ability to perform one or more of the duties or
12 responsibilities necessarily related to the occupation; and

13 2. "Poses a reasonable threat" means the nature of criminal
14 conduct for which the person was convicted involved an act or threat
15 of harm against another and has a bearing on the fitness or ability
16 to serve the public or work with others in the occupation.

17 SECTION 11. This act shall become effective November 1, 2020.

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