

MAINE STATE LEGISLATURE

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Date: 5/19/19

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STATE OF MAINE
SENATE
129TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 755,
L.D. 1025, Bill, "An Act To Prohibit the Provision of Conversion Therapy to Minors by
Certain Licensed Professionals"

Amend the amendment by striking out everything after the title and before the last
indented paragraph and inserting the following:

'Amend the bill by striking out everything after the enacting clause and inserting the
following:

'Sec. 1. 10 MRSA c. 233 is enacted to read:

CHAPTER 233

PROVIDING CONVERSION THERAPY TO MINORS

§1500-O. Prohibition; unlawful trade practice

1. Definitions. As used in this chapter, unless the context otherwise indicates, the
following terms have the following meanings.

A. "Aversive practice or treatment" means any practice or treatment that is intended
to induce changes in behavior through unpleasant stimuli or punishment, including
but not limited to the use of seclusion and isolation, ice baths or physical restraint.
"Aversive practice or treatment" also includes the use of pornographic and other
obscene materials that are produced for purposes other than providing education on
human reproduction and sexuality as well as the use of electroconvulsive therapy for
purposes that are not recognized as ethical and appropriate by the American
Psychological Association or the American Psychiatric Association or successor
organizations.

B. "Conversion therapy" means any aversive practice or treatment that seeks to
change an individual's sexual orientation or gender identity, including any aversive
practice or treatment that seeks to change gender expression or to eliminate or reduce
sexual or romantic attractions or feelings toward individuals of the same gender.
"Conversion therapy" does not include the following:

- (1) Talk therapy;

SENATE AMENDMENT

1 (2) Counseling intended to provide acceptance, support and understanding to the
2 individual; or

3 (3) Counseling intended to facilitate the individual's coping, social support or
4 identity exploration and development, including any therapeutic intervention that
5 is neutral with regard to sexual orientation and that seeks to prevent or address
6 unlawful conduct or unsafe sexual practices, as long as the counseling does not
7 seek to change the individual's sexual orientation or gender identity.

8 C. "Sexual orientation or gender identity" has the same meaning as "sexual
9 orientation" in Title 5, section 4553, subsection 9-C.

10 2. Prohibitions. A person may not advertise, offer or administer conversion therapy
11 to individuals under 18 years of age.

12 3. Unfair trade practice. A violation of this chapter is a violation of the Maine
13 Unfair Trade Practices Act.

14 Sec. 2. 20-A MRSA §13020, sub-§2-A is enacted to read:

15 2-A. Grounds for revocation or suspension of school psychologist or guidance
16 counselor certificate. Evidence that a person has administered conversion therapy as
17 defined in Title 10, section 1500-O, subsection 1, paragraph B to a child is grounds for
18 revocation or suspension of that person's certificate issued under this Title as a school
19 psychologist or guidance counselor.

20 Sec. 3. 20-A MRSA §13020, sub-§3, as enacted by PL 1983, c. 845, §4, is
21 amended to read:

22 3. Denial of certificate for prior immoral conduct. Evidence that an applicant for
23 initial certification or renewal has injured the health or welfare of a child through physical
24 or sexual abuse or exploitation is grounds for a denial of a certificate. Evidence that an
25 applicant for initial certification or renewal as a school psychologist or guidance
26 counselor has administered conversion therapy as defined in Title 10, section 1500-O,
27 subsection 1, paragraph B to a child is grounds for a denial of a certificate.
28 Notwithstanding Title 5, chapter 341, every person, who, within 5 years of the application
29 for initial certification or renewal, has been convicted in any state or federal court of a
30 criminal offense involving the physical or sexual abuse or exploitation of a child, may be
31 presumed by the commissioner to lack good moral character for the purposes of this
32 chapter. This presumption shall be is a rebuttable presumption. Notwithstanding Title 5,
33 chapter 341, the commissioner shall be is entitled to consider all records of prior criminal
34 convictions involving child abuse or exploitation in determining an applicant's eligibility
35 for a certificate.

36 Sec. 4. 22 MRSA §3174-BBB is enacted to read:

37 §3174-BBB. Coverage for conversion therapy

38 The department may not provide MaineCare reimbursement for conversion therapy
39 as defined in Title 10, section 1500-O, subsection 1, paragraph B administered to a minor.

40 Sec. 5. 24 MRSA §2502, sub-§6, as enacted by PL 1985, c. 804, §§5 and 22, is
41 amended to read:

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6. Action for professional negligence. "Action for professional negligence" means any action for damages for injury or death against any health care provider, its agents or employees, or health care practitioner, ~~his~~ the practitioner's agents or employees, whether based upon tort or breach of contract or otherwise, arising out of the provision or failure to provide health care services, except that "action for professional negligence" does not include an action brought pursuant to the Maine Unfair Trade Practices Act alleging a violation of Title 10, section 1500-O.

Sec. 6. 32 MRSA §2105-A, sub-§2, ¶I, as amended by PL 2015, c. 488, §11, is further amended to read:

I. Engaging in false, misleading or deceptive advertising; or

Sec. 7. 32 MRSA §2105-A, sub-§2, ¶J, as enacted by PL 2015, c. 488, §12, is amended to read:

J. Failure to comply with the requirements of Title 22, section 7253-; or

Sec. 8. 32 MRSA §2105-A, sub-§2, ¶K is enacted to read:

K. A violation of section 2112.

Sec. 9. 32 MRSA §2112 is enacted to read:

§2112. Prohibition on providing conversion therapy to minors

An individual licensed or certified under this chapter may not administer conversion therapy as defined in Title 10, section 1500-O, subsection 1, paragraph B to a minor.

Sec. 10. 32 MRSA §2591-A, sub-§2, ¶N, as amended by PL 2015, c. 488, §15, is further amended to read:

N. Revocation, suspension or restriction of a license to practice medicine or other disciplinary action; denial of an application for a license; or surrender of a license to practice medicine following the institution of disciplinary action by another state or a territory of the United States or a foreign country if the conduct resulting in the disciplinary or other action involving the license would, if committed in this State, constitute grounds for discipline under the laws or rules of this State; or

Sec. 11. 32 MRSA §2591-A, sub-§2, ¶O, as enacted by PL 2015, c. 488, §16, is amended to read:

O. Failure to comply with the requirements of Title 22, section 7253-; or

Sec. 12. 32 MRSA §2591-A, sub-§2, ¶P is enacted to read:

P. A violation of section 2600-D.

Sec. 13. 32 MRSA §2600-D is enacted to read:

§2600-D. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not administer conversion therapy as defined in Title 10, section 1500-O, subsection 1, paragraph B to a minor.

1 **Sec. 14. 32 MRSA §3282-A, sub-§2, ¶R**, as amended by PL 2015, c. 488, §18,
2 is further amended to read:

3 R. Failure to timely respond to a complaint notification sent by the board; ~~or~~

4 **Sec. 15. 32 MRSA §3282-A, sub-§2, ¶S**, as enacted by PL 2015, c. 488, §19, is
5 amended to read:

6 S. Failure to comply with the requirements of Title 22, section 7253-; or

7 **Sec. 16. 32 MRSA §3282-A, sub-§2, ¶T** is enacted to read:

8 T. A violation of section 3300-G.

9 **Sec. 17. 32 MRSA §3300-G** is enacted to read:

10 **§3300-G. Prohibition on providing conversion therapy to minors**

11 An individual licensed, registered or certified under this chapter may not administer
12 conversion therapy as defined in Title 10, section 1500-O, subsection 1, paragraph B to a
13 minor.

14 **Sec. 18. 32 MRSA §3837-A, sub-§1, ¶¶E and F**, as enacted by PL 2007, c.
15 402, Pt. Q, §14, are amended to read:

16 E. Practice by a licensed psychological examiner at a level requiring a psychologist's
17 license or any representation by a psychological examiner that that psychological
18 examiner is a psychologist; ~~or~~

19 F. Negligence in the performance of the licensee's duties-; or

20 **Sec. 19. 32 MRSA §3837-A, sub-§1, ¶G** is enacted to read:

21 G. A violation of section 3837-B.

22 **Sec. 20. 32 MRSA §3837-B** is enacted to read:

23 **§3837-B. Prohibition on providing conversion therapy to minors**

24 An individual licensed under this chapter may not administer conversion therapy as
25 defined in Title 10, section 1500-O, subsection 1, paragraph B to a minor.

26 **Sec. 21. 32 MRSA §6217-B, sub-§1**, as amended by PL 2017, c. 407, Pt. A,
27 §138, is further amended to read:

28 **1. Active use.** Active use of alcohol or any other drug that in the judgment of the
29 board is detrimental to the performance or competency of a licensee of the board; ~~or~~

30 **Sec. 22. 32 MRSA §6217-B, sub-§2**, as enacted by PL 2007, c. 402, Pt. U, §12,
31 is amended to read:

32 **2. Mental incompetency.** A legal finding of mental incompetency-; or

33 **Sec. 23. 32 MRSA §6217-B, sub-§3** is enacted to read:

34 **3. Prohibited conduct.** A violation of section 6223.

35 **Sec. 24. 32 MRSA §6223** is enacted to read:

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§6223. Prohibition on providing conversion therapy to minors

An individual licensed or certified under this chapter may not administer conversion therapy as defined in Title 10, section 1500-O, subsection 1, paragraph B to a minor.

Sec. 25. 32 MRSA §7006 is enacted to read:

§7006. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not administer conversion therapy as defined in Title 10, section 1500-O, subsection 1, paragraph B to a minor.

Sec. 26. 32 MRSA §7059-A, sub-§§1 and 2, as enacted by PL 2007, c. 402, Pt. V, §14, are amended to read:

1. Addiction to the use of alcohol or other drugs. Addiction, as confirmed by medical findings, to the use of alcohol or other drugs, that has resulted in the licensed clinical, licensed master or licensed social worker or certified social worker - independent practice being unable to perform duties or perform those duties in a manner that would not endanger the health or safety of the clients to be served; or

2. Mental incompetency. A medical finding of mental incompetency; or

Sec. 27. 32 MRSA §7059-A, sub-§3 is enacted to read:

3. Prohibited conduct. A violation of section 7006.

Sec. 28. 32 MRSA §13742-A, sub-§1, ¶D, as amended by PL 2017, c. 434, §2, is further amended to read:

D. Engaging in false, misleading or deceptive advertising; or

Sec. 29. 32 MRSA §13742-A, sub-§1, ¶E, as enacted by PL 2017, c. 434, §3, is amended to read:

E. Failing to comply with section 13800; or

Sec. 30. 32 MRSA §13742-A, sub-§1, ¶F is enacted to read:

F. A violation of section 13800-B.

Sec. 31. 32 MRSA §13800-B is enacted to read:

§13800-B. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not administer conversion therapy as defined in Title 10, section 1500-O, subsection 1, paragraph B to a minor.

Sec. 32. 32 MRSA §13861-A, sub-§1, ¶¶B and C, as enacted by PL 2007, c. 402, Pt. EE, §9, are amended to read:

B. A medical finding of mental incompetency; and

C. Having had any professional or occupational license revoked for disciplinary reasons or any application rejected for reasons relating to untrustworthiness, within 3 years of the date of application; and

1 "aversive practice or treatment" as any practice or treatment that is intended to induce
2 changes in behavior through unpleasant stimuli or punishment and provides examples of
3 aversive practices or treatments.

4 2. It provides that advertising, offering or administering conversion therapy to
5 individuals under 18 years of age in the State is an unfair trade practice. Court actions
6 involving conversion therapy brought against health care providers under the Maine
7 Unfair Trade Practices Act are not governed by the specialized procedures set forth in the
8 Maine Health Security Act for actions involving professional negligence.

9 3. It prohibits school psychologists and guidance counselors, nurses, doctors,
10 physician assistants, psychologists, psychological examiners, alcohol and drug counselors
11 and aides, social workers, pharmacists and pharmacy technicians, professional
12 counselors, marriage and family therapists, pastoral counselors, speech-language
13 pathologists and assistants and audiologists from administering conversion therapy to
14 individuals under 18 years of age. Administration of conversion therapy to an individual
15 under 18 years of age in violation of this prohibition is grounds for discipline of the
16 professional by the department or board that issued the professional's license, certification
17 or registration, including but not limited to suspension or revocation of the license,
18 certification or registration.

19 4. It prohibits MaineCare reimbursement for conversion therapy administered to an
20 individual who is under 18 years of age.

21 SPONSORED BY: Stacey Guerin

22 (Senator GUERIN)

23 COUNTY: Penobscot