

MAINE STATE LEGISLATURE

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L.D. 912

Date: 4-11-18

(Filing No. H-747)

REPORT C

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT C to H.P. 640, L.D. 912, Bill, "An Act To Clarify the Scope of Practice of Certain Licensed Professionals Regarding Conversion Therapy"

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

'Sec. 1. 10 MRSA c. 231 is enacted to read:

CHAPTER 231

PROVIDING CONVERSION THERAPY TO MINORS

§1500-J. 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 talk therapy.

COMMITTEE AMENDMENT

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

3. Unfair trade practice. A violation of this section is an unfair trade practice in violation of Title 5, chapter 10.

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

2-A. Grounds for revocation or suspension of a school psychologist or guidance counselor certificate. Evidence that a person has administered conversion therapy as defined in Title 10, section 1500-J to a child is grounds for revocation or suspension of that person's certificate issued under this Title as a school psychologist or guidance counselor.

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

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

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

§3174-AAA. Coverage for conversion therapy

The department may not provide MaineCare reimbursement for conversion therapy as defined in Title 10, section 1500-J administered to a minor.

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

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-J.

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

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

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

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

5 K. A violation of section 2112.

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

7 **§2112. Prohibition on providing conversion therapy to minors**

8 An individual licensed or certified under this chapter may not administer conversion
9 therapy as defined in Title 10, section 1500-J to a minor.

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

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

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

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

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

22 P. A violation of section 2600-D.

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

24 **§2600-D. Prohibition on providing conversion therapy to minors**

25 An individual licensed under this chapter may not administer conversion therapy as
26 defined in Title 10, section 1500-J to a minor.

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

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

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

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

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

34 T. A violation of section 3300-G.

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

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

An individual licensed, registered or certified under this chapter may not administer conversion therapy as defined in Title 10, section 1500-J to a minor.

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

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

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

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

G. A violation of section 3837-B.

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

§3837-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-J to a minor.

Sec. 21. 32 MRSA §6217-B, sub-§1, as amended by PL 2007, c. 621, §9, is further amended to read:

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

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

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

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

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

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

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

6 **2. Mental incompetency.** A medical finding of mental incompetency; ~~or~~

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

8 **3. Prohibited conduct.** A violation of section 7006.

9 **Sec. 28. 32 MRSA §13742-A, sub-§1, ¶¶C and D,** as enacted by PL 2007, c.
10 402, Pt. DD, §19, are amended to read:

11 C. Engaging in unprofessional conduct by violating any standard of professional
12 behavior, including but not limited to a breach of confidentiality of health care
13 information pursuant to state law, that has been established in the practice for which
14 the licensee is licensed; ~~or~~

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

16 **Sec. 29. 32 MRSA §13742-A, sub-§1, ¶E** is enacted to read:

17 E. A violation of section 13798-A.

18 **Sec. 30. 32 MRSA §13798-A** is enacted to read:

19 **§13798-A. Prohibition on providing conversion therapy to minors**

20 An individual licensed under this chapter may not administer conversion therapy as
21 defined in Title 10, section 1500-J to a minor.

22 **Sec. 31. 32 MRSA §13861-A, sub-§1, ¶¶B and C,** as enacted by PL 2007, c.
23 402, Pt. EE, §9, are amended to read:

24 B. A medical finding of mental incompetency; ~~and~~

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

28 **Sec. 32. 32 MRSA §13861-A, sub-§1, ¶D** is enacted to read:

29 D. A violation of section 13866.

30 **Sec. 33. 32 MRSA §13866** is enacted to read:

31 **§13866. Prohibition on providing conversion therapy to minors**

32 An individual licensed or registered under this chapter may not administer conversion
33 therapy as defined in Title 10, section 1500-J to a minor.

34 **Sec. 34. 32 MRSA §17307, sub-§§1 and 2,** as enacted by PL 2007, c. 369, Pt.
35 C, §3 and affected by §5, are amended to read:

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COMMITTEE AMENDMENT ^C to H.P. 640, L.D. 912

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counselors and aides, social workers, pharmacists and pharmacy technicians, professional counselors, marriage and family therapists, pastoral counselors, speech-language pathologists and assistants, and audiologists from administering conversion therapy to individuals under 18 years of age. Administration of conversion therapy to an individual under 18 years of age in violation of this prohibition is grounds for discipline of the professional by the department or board that issued the professional's license or certification, including but not limited to suspension or revocation of the license or certification.

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

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



128th MAINE LEGISLATURE

LD 912

LR 68(03)

An Act To Clarify the Scope of Practice of Certain Licensed Professionals Regarding Conversion Therapy

Fiscal Note for Bill as Amended by Committee Amendment *C" (H-747)*
Committee: Labor, Commerce, Research and Economic Development
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Additional costs to the regulatory boards either within or affiliated with the Department of Professional and Financial Regulation that are impacted by this legislation can be absorbed within existing budgeted resources.