

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 2456

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 amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018, 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 1, Chapter 72, O.S.L. 2018 (59 O.S. Supp. 2018, Section 567.8), which relates to the Nursing Practice Act; modifying criteria for imposition of disciplinary action; amending 59 O.S. 2011, 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 7, Chapter 169, O.S.L. 2016 (59 O.S. Supp. 2018, 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 11, Chapter 183, O.S.L. 2015 (59 O.S. Supp. 2018, 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 12, Chapter 183, O.S.L. 2015 (59 O.S. Supp. 2018, 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 13, Chapter 183, O.S.L. 2015 (59 O.S. Supp. 2018, Section 1941), which relates to the Licensed Behavioral Practitioner Act; modifying criteria for imposition of disciplinary action;

1 providing for codification; and providing an
2 effective date.

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

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

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

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

14 As used in the Youth Mental Health Protection Act:

15 1. "Conversion therapy" means any practice or treatment that
16 seeks to change a person's sexual orientation or gender identity,
17 including, but not limited to, 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. "Conversion
20 therapy" does not mean:

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

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

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

12 3. "Sexual orientation" means heterosexuality, homosexuality or
13 bisexuality, whether actual or perceived.

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

17 No provider, as defined in Section 725.2 of Title 59 of the
18 Oklahoma Statutes, shall provide conversion therapy to any person
19 under eighteen (18) years of age. The provision of conversion
20 therapy in violation of the provisions of the Youth Mental Health
21 Protection Act shall be grounds for disciplinary action by the
22 provider's licensing board.

1 SECTION 4. AMENDATORY 59 O.S. 2011, Section 509, as
2 amended by Section 2, Chapter 175, O.S.L. 2018 (59 O.S. Supp. 2018,
3 Section 509), is amended to read as follows:

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

- 7 1. Procuring, aiding or abetting a criminal operation;
- 8 2. The obtaining of any fee or offering to accept any fee,
9 present or other form of remuneration whatsoever, on the assurance
10 or promise that a manifestly incurable disease can or will be cured;
- 11 3. Willfully betraying a professional secret to the detriment
12 of the patient;
- 13 4. Habitual intemperance or the habitual use of habit-forming
14 drugs;
- 15 5. Conviction of a felony or of any offense involving moral
16 turpitude;
- 17 6. All advertising of medical business in which statements are
18 made which are grossly untrue or improbable and calculated to
19 mislead the public;
- 20 7. Conviction or confession of a crime involving violation of:
21 a. the antinarcotic or prohibition laws and regulations
22 of the federal government,
23 b. the laws of this state, or
24 c. State Board of Health rules;

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

3 9. The commission of any act which is a violation of the
4 criminal laws of any state when such act is connected with the
5 physician's practice of medicine. A complaint, indictment or
6 confession of a criminal violation shall not be necessary for the
7 enforcement of this provision. Proof of the commission of the act
8 while in the practice of medicine or under the guise of the practice
9 of medicine shall be unprofessional conduct;

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

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

15 12. Prescribing or administering a drug or treatment without
16 sufficient examination and the establishment of a valid physician-
17 patient relationship;

18 13. The violation, or attempted violation, direct or indirect,
19 of any of the provisions of the Oklahoma Allopathic Medical and
20 Surgical Licensure and Supervision Act, either as a principal,
21 accessory or accomplice;

22 14. Aiding or abetting, directly or indirectly, the practice of
23 medicine by any person not duly authorized under the laws of this
24 state;

1 15. The inability to practice medicine with reasonable skill
2 and safety to patients by reason of age, illness, drunkenness,
3 excessive use of drugs, narcotics, chemicals, or any other type of
4 material or as a result of any mental or physical condition. In
5 enforcing this subsection the State Board of Medical Licensure and
6 Supervision may, upon probable cause, request a physician to submit
7 to a mental or physical examination by physicians designated by it.
8 If the physician refuses to submit to the examination, the Board
9 shall issue an order requiring the physician to show cause why the
10 physician will not submit to the examination and shall schedule a
11 hearing on the order within thirty (30) days after notice is served
12 on the physician. The physician shall be notified by either
13 personal service or by certified mail with return receipt requested.
14 At the hearing, the physician and the physician's attorney are
15 entitled to present any testimony and other evidence to show why the
16 physician should not be required to submit to the examination.
17 After a complete hearing, the Board shall issue an order either
18 requiring the physician to submit to the examination or withdrawing
19 the request for examination. The medical license of a physician
20 ordered to submit for examination may be suspended until the results
21 of the examination are received and reviewed by the Board;

22 16. a. Prescribing, dispensing or administering of controlled
23 substances or narcotic drugs in excess of the amount
24 considered good medical practice,

- 1 b. prescribing, dispensing or administering controlled
2 substances or narcotic drugs without medical need in
3 accordance with pertinent licensing board standards,
4 or
5 c. prescribing, dispensing or administering opioid drugs
6 in excess of the maximum dosage authorized under
7 Section ~~5~~ 2-309I of ~~this act~~ Title 63 of the Oklahoma
8 Statutes;

9 17. Engaging in physical conduct with a patient which is sexual
10 in nature, or in any verbal behavior which is seductive or sexually
11 demeaning to a patient;

12 18. Failure to maintain an office record for each patient which
13 accurately reflects the evaluation, treatment, and medical necessity
14 of treatment of the patient;

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

19 20. Failure to provide a proper and safe medical facility
20 setting and qualified assistive personnel for a recognized medical
21 act, including but not limited to an initial in-person patient
22 examination, office surgery, diagnostic service or any other medical
23 procedure or treatment. Adequate medical records to support
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1 diagnosis, procedure, treatment or prescribed medications must be
2 produced and maintained; or

3 21. Providing conversion therapy, as defined by Section 2 of
4 this act, to any person under eighteen (18) years of age.

5 SECTION 5. AMENDATORY 59 O.S. 2011, Section 567.8, as
6 last amended by Section 1, Chapter 72, O.S.L. 2018 (59 O.S. Supp.
7 2018, Section 567.8), is amended to read as follows:

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

10 1. To deny, revoke or suspend any:

- 11 a. licensure to practice as a Licensed Practical Nurse,
12 single-state or multistate,
- 13 b. licensure to practice as a Registered Nurse, single-
14 state or multistate,
- 15 c. multistate privilege to practice in Oklahoma,
- 16 d. licensure to practice as an Advanced Practice
17 Registered Nurse,
- 18 e. certification to practice as an Advanced Unlicensed
19 Assistant,
- 20 f. authorization for prescriptive authority, or
- 21 g. authority to order, select, obtain and administer
22 drugs;

23 2. To assess administrative penalties; and
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1 3. To otherwise discipline applicants, licensees or Advanced
2 Unlicensed Assistants.

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

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

8 a. a license to practice registered nursing, licensed
9 practical nursing, and/or a license to practice
10 advanced practice registered nursing with or without
11 either prescriptive authority recognition or
12 authorization to order, select, obtain and administer
13 drugs, or

14 b. certification as an Advanced Unlicensed Assistant;

15 2. Is guilty of a felony, or any offense reasonably related to
16 the qualifications, functions or duties of any licensee or Advanced
17 Unlicensed Assistant, or any offense an essential element of which
18 is fraud, dishonesty, or an act of violence, or for any offense
19 involving moral turpitude, whether or not sentence is imposed, or
20 any conduct resulting in the revocation of a deferred or suspended
21 sentence or probation imposed pursuant to such conviction;

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

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

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

16 6. Has been adjudicated as mentally incompetent, mentally ill,
17 chemically dependent or dangerous to the public or has been
18 committed by a court of competent jurisdiction, within or without
19 this state;

20 7. Is guilty of unprofessional conduct as defined in the rules
21 of the Board;

22 8. Is guilty of any act that jeopardizes a patient's life,
23 health or safety as defined in the rules of the Board;
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1 9. Violated a rule promulgated by the Board, an order of the
2 Board, or a state or federal law relating to the practice of
3 registered, practical or advanced practice registered nursing or
4 advanced unlicensed assisting, or a state or federal narcotics or
5 controlled dangerous substance law;

6 10. Has had disciplinary actions taken against the individual's
7 registered or practical nursing license, advanced unlicensed
8 assistive certification, or any professional or occupational
9 license, registration or certification in this or any state,
10 territory or country;

11 11. Has defaulted and/or been terminated from the peer
12 assistance program for any reason;

13 12. Fails to maintain professional boundaries with patients, as
14 defined in the Board rules; ~~and/or~~

15 13. Engages in sexual misconduct, as defined in Board rules,
16 with a current or former patient or key party, inside or outside the
17 health care setting; and/or

18 14. Provides conversion therapy, as defined by Section 2 of
19 this act, to any person under eighteen (18) years of age.

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

23 D. The Board may cause to be investigated all reported
24 violations of the Oklahoma Nursing Practice Act.

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

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

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

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

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

22 J. 1. Any person who has been determined by the Board to have
23 violated any provisions of the Oklahoma Nursing Practice Act or any
24 rule or order issued pursuant thereto shall be liable for an

1 administrative penalty not to exceed Five Hundred Dollars (\$500.00)
2 for each count for which any holder of a certificate or license has
3 been determined to be in violation of the Oklahoma Nursing Practice
4 Act or any rule promulgated or order issued pursuant thereto.

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

15 K. The Board shall retain jurisdiction over any person issued a
16 license, certificate or temporary license pursuant to this act,
17 regardless of whether the license, certificate or temporary license
18 has expired, lapsed or been relinquished during or after the alleged
19 occurrence or conduct prescribed by this act.

20 L. In the event disciplinary action is imposed, any person so
21 disciplined shall be responsible for any and all costs associated
22 with satisfaction of the discipline imposed.

23 M. In the event disciplinary action is imposed in an
24 administrative proceeding, the Board shall have the authority to

1 recover the monies expended by the Board in pursuing any
2 disciplinary action, including but not limited to costs of
3 investigation, probation or monitoring fees, administrative costs,
4 witness fees, attorney fees and court costs. This authority shall
5 be in addition to the Board's authority to impose discipline as set
6 out in subsection A of this section.

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

13 O. When a majority of the officers of the Board, which
14 constitutes the President, Vice President and Secretary/Treasurer,
15 find that preservation of the public health, safety or welfare
16 requires immediate action, summary suspension of licensure or
17 certification may be ordered before the filing of a sworn complaint
18 or at any other time before the outcome of an individual proceeding.
19 The summary suspension of licensure or certification may be ordered
20 without compliance with the requirements of the Oklahoma Open
21 Meeting Act. Within seven (7) days after the summary suspension,
22 the licensee shall be notified by letter that summary suspension has
23 occurred. The summary suspension letter shall include notice of the
24 date of the proposed hearing to be held in accordance with Oklahoma

1 Administrative Code 485:10-11-2 and the Administrative Procedures
2 Act, within ninety (90) days of the date of the summary suspension
3 letter, and shall be signed by one of the Board officers.

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

15 SECTION 6. AMENDATORY 59 O.S. 2011, Section 637, is
16 amended to read as follows:

17 Section 637. A. The State Board of Osteopathic Examiners may
18 refuse to admit a person to an examination or may refuse to issue or
19 reinstate or may suspend or revoke any license issued or reinstated
20 by the Board upon proof that the applicant or holder of such a
21 license:

22 1. Has obtained a license, license renewal or authorization to
23 sit for an examination, as the case may be, through fraud,
24 deception, misrepresentation or bribery; or has been granted a

1 license, license renewal or authorization to sit for an examination
2 based upon a material mistake of fact;

3 2. Has engaged in the use or employment of dishonesty, fraud,
4 misrepresentation, false promise, false pretense, unethical conduct
5 or unprofessional conduct, as may be determined by the Board, in the
6 performance of the functions or duties of an osteopathic physician,
7 including but not limited to the following:

- 8 a. obtaining or attempting to obtain any fee, charge,
9 tuition or other compensation by fraud, deception or
10 misrepresentation; willfully and continually
11 overcharging or overtreating patients; or charging for
12 visits to the physician's office which did not occur
13 or for services which were not rendered,
- 14 b. using intimidation, coercion or deception to obtain or
15 retain a patient or discourage the use of a second
16 opinion or consultation,
- 17 c. willfully performing inappropriate or unnecessary
18 treatment, diagnostic tests or osteopathic medical or
19 surgical services,
- 20 d. delegating professional responsibilities to a person
21 who is not qualified by training, skill, competency,
22 age, experience or licensure to perform them, noting
23 that delegation may only occur within an appropriate
24 doctor/patient relationship, wherein a proper patient

- 1 record is maintained including, but not limited to, at
2 the minimum, a current history and physical,
- 3 e. misrepresenting that any disease, ailment, or
4 infirmity can be cured by a method, procedure,
5 treatment, medicine or device,
- 6 f. acting in a manner which results in final disciplinary
7 action by any professional society or association or
8 hospital or medical staff of such hospital in this or
9 any other state, whether agreed to voluntarily or not,
10 if the action was in any way related to professional
11 conduct, professional competence, malpractice or any
12 other violation of the Oklahoma Osteopathic Medicine
13 Act,
- 14 g. signing a blank prescription form; or dispensing,
15 prescribing, administering or otherwise distributing
16 any drug, controlled substance or other treatment
17 without sufficient examination or the establishment of
18 a physician/patient relationship, or for other than
19 medically accepted therapeutic or experimental or
20 investigational purpose duly authorized by a state or
21 federal agency, or not in good faith to relieve pain
22 and suffering, or not to treat an ailment, physical
23 infirmity or disease, or violating any state or
24 federal law on controlled dangerous substances,

- h. engaging in any sexual activity within a physician/patient relationship,
- i. terminating the care of a patient without adequate notice or without making other arrangements for the continued care of the patient,
- j. failing to furnish a copy of a patient's medical records upon a proper request from the patient or legal agent of the patient or another physician; or failing to comply with any other law relating to medical records,
- k. failing to comply with any subpoena issued by the Board,
- l. violating a probation agreement or order with this Board or any other agency, and
- m. failing to keep complete and accurate records of purchase and disposal of controlled drugs or narcotic drugs;

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

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

5. Has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere in a criminal prosecution, for any offense reasonably related to the qualifications, functions or

1 duties of an osteopathic physician, or for any offense involving
2 moral turpitude, whether or not sentence is imposed, and regardless
3 of the pendency of an appeal;

4 6. Has had the authority to engage in the activities regulated
5 by the Board revoked, suspended, restricted, modified or limited, or
6 has been reprimanded, warned or censured, probated or otherwise
7 disciplined by any other state or federal agency whether or not
8 voluntarily agreed to by the physician including, but not limited
9 to, the denial of licensure, surrender of the license, permit or
10 authority, allowing the license, permit or authority to expire or
11 lapse, or discontinuing or limiting the practice of osteopathic
12 medicine pending disposition of a complaint or completion of an
13 investigation;

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

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

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

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

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

1 12. Has been guilty of habitual drunkenness, or habitual
2 addiction to the use of morphine, cocaine or other habit-forming
3 drugs;

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

7 14. Has been adjudicated to be insane, or incompetent, or
8 admitted to an institution for the treatment of psychiatric
9 disorders; and

10 15. Has provided conversion therapy, as defined by Section 2 of
11 this act, to any person under eighteen (18) years of age.

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

21 C. The State Board of Osteopathic Examiners shall have the
22 power to order or subpoena the attendance of witnesses, the
23 inspection of records and premises and the production of relevant
24 books and papers for the investigation of matters that may come

1 before them. The presiding officer of said Board shall have the
2 authority to compel the giving of testimony as is conferred on
3 courts of justice.

4 D. Any osteopathic physician in the State of Oklahoma whose
5 license to practice osteopathic medicine is revoked or suspended
6 under the previous paragraphs of this section shall have the right
7 to seek judicial review of a ruling of the Board pursuant to the
8 Administrative Procedures Act.

9 E. The Board may enact rules and regulations pursuant to the
10 Administrative Procedures Act setting out additional acts of
11 unprofessional conduct; which acts shall be grounds for refusal to
12 issue or reinstate, or for action to condition, suspend or revoke a
13 license.

14 SECTION 7. AMENDATORY 59 O.S. 2011, Section 1370, as
15 last amended by Section 7, Chapter 169, O.S.L. 2016 (59 O.S. Supp.
16 2018, Section 1370), is amended to read as follows:

17 Section 1370. A. A psychologist and any other persons under
18 the supervision of the psychologist shall conduct their professional
19 activities in conformity with ethical and professional standards
20 promulgated by the State Board of Examiners of Psychologists by
21 rule.

22 B. The Board shall have the power and duty to suspend, place on
23 probation, require remediation, revoke any license to practice
24 psychology, impose an administrative fine not to exceed Five

1 Thousand Dollars (\$5,000.00) per incident, or assess reasonable
2 costs or to take any other action specified in the rules whenever
3 the Board shall find by clear and convincing evidence that the
4 psychologist has engaged in any of the following acts or offenses:

5 1. Fraud in applying for or procuring a license to practice
6 psychology;

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

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

11 4. Conviction of a felony crime that substantially relates to
12 the business practices of psychology or poses a reasonable threat to
13 public safety;

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

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

18 7. Use of repeated untruthful, deceptive or improbable
19 statements concerning the licensee's qualifications or the effects
20 or results of proposed treatment, including practicing outside of
21 the psychologist's professional competence established by education,
22 training, and experience;

23 8. Gross malpractice or repeated malpractice or gross
24 negligence in the practice of psychology;

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

4 10. Conviction of or pleading guilty or nolo contendere to
5 fraud in filing Medicare or Medicaid claims or in filing claims with
6 any third-party payor. A copy of the record of plea or conviction,
7 certified by the clerk of the court entering the plea or conviction,
8 shall be conclusive evidence of the plea or conviction;

9 11. Exercising undue influence in a manner to exploit the
10 client, patient, student, or supervisee for financial advantage
11 beyond the payment of professional fees or for other personal
12 advantage to the practitioner or a third party;

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

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

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

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

23 16. Inability to practice psychology with reasonable skill and
24 safety to patients or clients by reason of illness, inebriation,

1 misuse of drugs, narcotics, alcohol, chemicals, or any other
2 substance, or as a result of any mental or physical condition; and

3 17. Providing conversion therapy, as defined by Section 2 of
4 this act, to any person under eighteen (18) years of age.

5 C. No license shall be suspended or revoked nor the licensee
6 placed on probation or reprimanded until the licensee has been given
7 an opportunity for a hearing before the Board pursuant to the
8 provisions of subsection D of this section. Whenever the Board
9 determines that there has been a violation of any of the provisions
10 of the Psychologists Licensing Act or of any order of the Board, it
11 shall give written notice to the alleged violator specifying the
12 cause of complaint. The notice shall require that the alleged
13 violator appear before the Board at a time and place specified in
14 the notice and answer the charges specified in the notice. The
15 notice shall be delivered to the alleged violator in accordance with
16 the provisions of subsection E of this section not less than ten
17 (10) days before the time set for the hearing.

18 D. On the basis of the evidence produced at the hearing, the
19 Board shall make findings of fact and conclusions of law and enter
20 an order thereon in writing or stated in the record. A final order
21 adverse to the alleged violator shall be in writing. An order
22 stated in the record shall become effective immediately, provided
23 the Board gives written notice of the order to the alleged violator
24 and to the other persons who appeared at the hearing and made

1 written request for notice of the order. If the hearing is held
2 before any person other than the Board itself, such person shall
3 transmit the record of the hearing together with recommendations for
4 findings of fact and conclusions of law to the Board, which shall
5 thereupon enter its order. The Board may enter its order on the
6 basis of such record or, before issuing its order, require
7 additional hearings or further evidence to be presented. The order
8 of the Board shall become final and binding on all parties unless
9 appealed to the district court as provided for in the Administrative
10 Procedures Act.

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

22 F. Every certificate or affidavit of service made and filed as
23 provided for in this section shall be prima facie evidence of the
24 facts stated therein, and a certified copy thereof shall have same

1 force and effect as the original certificate or affidavit of
2 service.

3 G. If the psychologist fails or refuses to appear, the Board
4 may proceed to hearing and determine the charges in his or her
5 absence. If the psychologist pleads guilty, or if upon hearing the
6 charges, a majority of the Board finds them to be true, the Board
7 may enter an order suspending or revoking the license of the
8 psychologist, reprimanding the psychologist, or placing the
9 psychologist on probation or any combination of penalties authorized
10 by the provisions of this section.

11 H. The secretary of the Board shall preserve a record of all
12 proceedings of the hearings and shall furnish a transcript of the
13 hearings to the defendant upon request. The defendant shall prepay
14 the actual cost of preparing the transcript.

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

18 J. As used in this section:

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

23 2. "Poses a reasonable threat" means the nature of criminal
24 conduct for which the person was convicted involved an act or threat

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 K. The Board may keep confidential its investigative files.

4 SECTION 8. AMENDATORY 59 O.S. 2011, Section 1912, as
5 last amended by Section 11, Chapter 183, O.S.L. 2015 (59 O.S. Supp.
6 2018, Section 1912), is amended to read as follows:

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

12 1. Been convicted of a felony crime that substantially relates
13 to the practice of counseling or poses a reasonable threat to public
14 safety;

15 2. Been convicted of a misdemeanor involving moral turpitude;

16 3. Engaged in fraud or deceit in connection with services
17 rendered or in establishing needed qualifications pursuant to the
18 provisions of this act;

19 4. Knowingly aided or abetted a person not licensed pursuant to
20 these provisions in representing himself as a licensed professional
21 counselor in this state;

22 5. Engaged in unprofessional conduct as defined by the rules
23 established by the Board;

1 6. Engaged in negligence or wrongful actions in the performance
2 of his or her duties; ~~or~~

3 7. Misrepresented any information required in obtaining a
4 license; or

5 8. Provided conversion therapy, as defined by Section 2 of this
6 act, to any person under eighteen (18) years of age.

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

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

19 D. As used in this section:

20 1. "Substantially relates" means the nature of criminal conduct
21 for which the person was convicted has a direct bearing on the
22 fitness or ability to perform one or more of the duties or
23 responsibilities necessarily related to the occupation; and
24

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

5 SECTION 9. AMENDATORY 59 O.S. 2011, Section 1925.15, as
6 last amended by Section 12, Chapter 183, O.S.L. 2015 (59 O.S. Supp.
7 2018, Section 1925.15), is amended to read as follows:

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

12 1. Been convicted of a felony crime that substantially relates
13 to the practice of counseling or poses a reasonable threat to public
14 safety;

15 2. Been convicted of a misdemeanor crime involving moral
16 turpitude;

17 3. Violated ethical standards of such a nature as to render the
18 person found by the Board to have engaged in such violation unfit to
19 practice marital and family therapy;

20 4. Misrepresented any information required in obtaining a
21 license;

22 5. Engaged in fraud or deceit in connection with services
23 rendered or in establishing needed qualifications pursuant to the
24 provisions of the Marital and Family Therapist Licensure Act;

1 6. Knowingly aided or abetted a person not licensed pursuant to
2 these provisions in representing himself or herself as a licensed
3 marital and family therapist in this state;

4 7. Engaged in unprofessional conduct as defined by the rules
5 promulgated by the Board; ~~or~~

6 8. Engaged in negligence or wrongful actions in the performance
7 of the duties of such person; or

8 9. Provided conversion therapy, as defined by Section 2 of this
9 act, to any person under eighteen (18) years of age.

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

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

21 D. Any person who is determined by the Board to have violated
22 any of the provisions of the Marital and Family Therapist Licensure
23 Act or any rule promulgated or order issued pursuant thereto may be
24 subject to an administrative penalty. The maximum fine shall not

1 exceed Ten Thousand Dollars (\$10,000.00). All administrative
2 penalties collected pursuant to the Marital and Family Therapist
3 Licensure Act shall be deposited into the Licensed Marital and
4 Family Therapist Revolving Fund. Administrative penalties imposed
5 pursuant to this subsection shall be enforceable in the district
6 courts of this state.

7 E. As used in this section:

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

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

16 SECTION 10. AMENDATORY 59 O.S. 2011, Section 1941, as
17 last amended by Section 13, Chapter 183, O.S.L. 2015 (59 O.S. Supp.
18 2018, Section 1941), is amended to read as follows:

19 Section 1941. A. The State Board of Behavioral Health
20 Licensure may deny, revoke, suspend, or place on probation any
21 license or specialty designation issued pursuant to the provisions
22 of the Licensed Behavioral Practitioner Act to a licensed behavioral
23 practitioner, if the person has:
24

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

4 2. Been convicted of a misdemeanor involving moral turpitude;

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

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

11 5. Engaged in unprofessional conduct as defined by the rules
12 established by the Board;

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

15 7. Misrepresented any information required in obtaining a
16 license; or

17 8. Provided conversion therapy, as defined by Section 2 of this
18 act, to any person under eighteen (18) years of age.

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

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, 2019.

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