

AMENDMENTS TO LB574

(Amendments to Final Reading copy)

Introduced by Cavanaugh, J., 9.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 38-179, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 38-179 For purposes of section 38-178, unprofessional conduct means
6 any departure from or failure to conform to the standards of acceptable
7 and prevailing practice of a profession or the ethics of the profession,
8 regardless of whether a person, consumer, or entity is injured, or
9 conduct that is likely to deceive or defraud the public or is detrimental
10 to the public interest, including, but not limited to:

11 (1) Receipt of fees on the assurance that an incurable disease can
12 be permanently cured;

13 (2) Division of fees, or agreeing to split or divide the fees,
14 received for professional services with any person for bringing or
15 referring a consumer other than (a) with a partner or employee of the
16 applicant or credential holder or his or her office or clinic, (b) with a
17 landlord of the applicant or credential holder pursuant to a written
18 agreement that provides for payment of rent based on gross receipts, or
19 (c) with a former partner or employee of the applicant or credential
20 holder based on a retirement plan or separation agreement;

21 (3) Obtaining any fee for professional services by fraud, deceit, or
22 misrepresentation, including, but not limited to, falsification of third-
23 party claim documents;

24 (4) Cheating on or attempting to subvert the credentialing
25 examination;

26 (5) Assisting in the care or treatment of a consumer without the

1 consent of such consumer or his or her legal representative;

2 (6) Use of any letters, words, or terms, either as a prefix, affix,
3 or suffix, on stationery, in advertisements, or otherwise, indicating
4 that such person is entitled to practice a profession for which he or she
5 is not credentialed;

6 (7) Performing, procuring, or aiding and abetting in the performance
7 or procurement of a criminal abortion;

8 (8) Knowingly disclosing confidential information except as
9 otherwise permitted by law;

10 (9) Commission of any act of sexual abuse, misconduct, or
11 exploitation related to the practice of the profession of the applicant
12 or credential holder;

13 (10) Failure to keep and maintain adequate records of treatment or
14 service;

15 (11) Prescribing, administering, distributing, dispensing, giving,
16 or selling any controlled substance or other drug recognized as addictive
17 or dangerous for other than a medically accepted therapeutic purpose;

18 (12) Prescribing any controlled substance to (a) oneself or (b)
19 except in the case of a medical emergency (i) one's spouse, (ii) one's
20 child, (iii) one's parent, (iv) one's sibling, or (v) any other person
21 living in the same household as the prescriber;

22 (13) Failure to comply with any federal, state, or municipal law,
23 ordinance, rule, or regulation that pertains to the applicable
24 profession;

25 (14) Disruptive behavior, whether verbal or physical, which
26 interferes with consumer care or could reasonably be expected to
27 interfere with such care; ~~and~~

28 (15) Performing gender-affirming surgery or providing gender-
29 affirming medical treatment for an individual younger than nineteen years
30 of age in violation of section 2 of this act; and

31 (16) ~~(15)~~ Such other acts as may be defined in rules and

1 regulations.

2 Nothing in this section shall be construed to exclude determination
3 of additional conduct that is unprofessional by adjudication in
4 individual contested cases.

5 Sec. 2. (1) For purposes of this section:

6 (a) Gender-affirming surgery means surgery to affirm a person's
7 gender identity for the treatment of gender incongruence;

8 (b) Gender-affirming medical treatment means medical interventions
9 directly provided by a health care practitioner to treat gender
10 incongruence, including physician services, hospital services, or
11 prescribing of medications. Gender-affirming medical treatment does not
12 include mental or behavioral health care services or gender-affirming
13 surgery;

14 (c) Gender incongruence means a diagnostic term that describes an
15 individual's marked and persistent experience of an incompatibility
16 between that individual's gender identity and the gender expected of such
17 individual based on such individual's birth-assigned sex; and

18 (d) Health care practitioner means a physician, physician assistant,
19 advanced practice registered nurse, or nurse practitioner licensed or
20 certified under the Uniform Credentialing Act.

21 (2) No health care practitioner shall perform gender-affirming
22 surgery in this state for an individual younger than nineteen years of
23 age unless the following criteria are met:

24 (a) The parent or guardian of such individual has provided voluntary
25 and informed written consent. A health care practitioner shall make an
26 effort to seek consent from all parents or guardians of the patient and
27 shall document such efforts;

28 (b) The patient demonstrates the emotional and cognitive maturity
29 required to provide informed assent for the surgery;

30 (c) The patient meets the diagnostic criteria of gender incongruence
31 and gender incongruence is marked and sustained over time;

1 (d) The patient has written documentation recommending gender-
2 affirming surgery from at least two licensed mental health professionals,
3 psychologists, or psychiatrists who are not part of the same clinic as
4 each other;

5 (e) The patient has been informed of the reproductive effects,
6 including the potential loss of fertility and the available options to
7 preserve fertility, as well as any other potential side effects or
8 consequences of such surgery;

9 (f) The patient has reached the Tanner stage two of puberty;

10 (g) Mental health concerns, if any, that may interfere with
11 diagnostic clarity, capacity to consent, or gender-affirming surgery have
12 been addressed sufficiently so that such surgery can be provided
13 optimally; and

14 (h) The patient has been under the care of a health care
15 practitioner, licensed mental health provider, psychologist, or
16 psychiatrist for the treatment of gender incongruence for at least twelve
17 month prior to surgery.

18 (3) No health care practitioner shall provide irreversible gender-
19 affirming medical treatment for an individual younger than nineteen years
20 of age unless the following criteria are met:

21 (a) The parent or guardian of such individual has provided voluntary
22 and informed written consent. A health care practitioner shall make an
23 effort to seek consent from all parents or guardians of the patient and
24 shall document such efforts;

25 (b) The patient demonstrates the emotional and cognitive maturity
26 required to provide informed assent for the treatment;

27 (c) The patient meets the diagnostic criteria of gender incongruence
28 and gender incongruence is marked and sustained over time;

29 (d) The patient has written documentation recommending gender-
30 affirming medical treatment from at least two licensed mental health
31 professionals, psychologists, or psychiatrists that are not part of the

1 same clinic as each other;

2 (e) The patient has been informed of the reproductive effects,
3 including the potential loss of fertility and the available options to
4 preserve fertility, as well as any other potential side effects or
5 consequences of such treatment;

6 (f) The patient has reached the Tanner stage two of puberty; and

7 (g) Mental health concerns, if any, that may interfere with
8 diagnostic clarity, capacity to consent, or gender-affirming medical
9 treatment have been addressed sufficiently so that such medical treatment
10 can be provided optimally.

11 (4) The intentional and knowing performance of gender-affirming
12 surgery or irreversible gender-affirming medical treatment by a health
13 care practitioner for an individual younger than nineteen years of age in
14 violation of subsection (2) or (3) of this section shall be considered
15 unprofessional conduct as defined in section 38-179.

16 (5) The denial of consent for gender-affirming surgery or gender-
17 affirming medical treatment by a parent or guardian of an individual
18 younger than nineteen years of age shall not require mandatory reporting
19 under 28-711.

20 Sec. 3. This act becomes operative on October 1, 2023.

21 Sec. 4. Original section 38-179, Revised Statutes Cumulative
22 Supplement, 2022, is repealed.

23 2. On page 1, strike beginning with "to" in line 2 through line 4
24 and insert "to prohibit performing gender-affirming surgery or gender-
25 affirming medical treatment for an individual younger than nineteen years
26 of age as prescribed; to change provisions relating to unprofessional
27 conduct under the Uniform Credentialing Act; to harmonize provisions; to
28 provide an operative date; and to repeal the original section."