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H.P. 755

House of Representatives, February 28, 2019

**An Act To Prohibit the Provision of Conversion Therapy to Minors
by Certain Licensed Professionals**

Reference to the Committee on Health Coverage, Insurance and Financial Services
suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative FECTEAU of Biddeford.

Cosponsored by Representative RECKITT of South Portland, Senator SANBORN, L. of Cumberland and Representatives: ALLEY of Beals, AUSTIN of Skowhegan, BABBIDGE of Kennebunk, BABINE of Scarborough, BAILEY of Saco, BEEBE-CENTER of Rockland, BERRY of Bowdoinham, BLUME of York, BRENNAN of Portland, BROOKS of Lewiston, BRYANT of Windham, CAIAZZO of Scarborough, CARDONE of Bangor, CARNEY of Cape Elizabeth, CLOUTIER of Lewiston, COLLINGS of Portland, COOPER of Yarmouth, CRAVEN of Lewiston, CROCKETT of Portland, CUDDY of Winterport, DAUGHTRY of Brunswick, DENK of Kennebunk, DENNO of Cumberland, DODGE of Belfast, DOORE of Augusta, DOUDERA of Camden, DUNPHY of Old Town, EVANGELOS of Friendship, FARNSWORTH of Portland, FOLEY of Biddeford, GATTINE of Westbrook, Speaker GIDEON of Freeport, GRAMLICH of Old Orchard Beach, GROHOSKI of Ellsworth, HARNETT of Gardiner, HEPLER of Woolwich, HICKMAN of Winthrop, HOBBS of Wells, HUBBELL of Bar Harbor, HYMANSON of York, INGWERSEN of Arundel, JORGENSEN of Portland, KESSLER of South Portland, KORNFELD of Bangor, MADIGAN of Waterville, MASTRACCIO of Sanford, MATLACK of St. George, MAXMIN of Nobleboro, McCREIGHT of Harpswell, McDONALD of Stonington, McLEAN of Gorham, MELARAGNO of Auburn, MEYER of Eliot, MOONEN of Portland, MORALES of South Portland, NADEAU of Winslow, O'NEIL of Saco, PEBWORTH of Blue Hill, PEOPLES of Westbrook, PERRY of Calais, PIERCE of Falmouth, ROBERTS-LOVELL of South Berwick, RYKERSON of Kittery, SCHNECK of Bangor, SHARPE of Durham, STOVER of Boothbay, STROM of Pittsfield, SYLVESTER of Portland, TALBOT ROSS of Portland, TEPLER of Topsham, TERRY of Gorham, TIPPING of Orono, TUCKER of Brunswick, WARREN of Hallowell, ZEIGLER of Montville, Senators: BELLOWS of Kennebec, BREEN of Cumberland, CHENETTE of York, CHIPMAN of Cumberland, CLAXTON of Androscoggin, DESCHAMBAULT of York, DILL of Penobscot, GRATWICK of Penobscot, LAWRENCE of York, LIBBY of Androscoggin, LUCHINI of Hancock, MILLETT of Cumberland, MIRAMANT of Knox, MOORE of Washington, ROSEN of Hancock, SANBORN, H. of Cumberland, VITELLI of Sagadahoc, WOODSOME of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA §13020, sub-§2-A** is enacted to read:

3 **2-A. Grounds for discipline of a school psychologist or guidance counselor.**
4 Evidence that a person who is certified under this Title as a school psychologist or
5 guidance counselor has advertised, offered or administered conversion therapy as defined
6 in Title 32, section 59-C, subsection 1 to a child within the last 5 years is grounds for
7 discipline of that person.

8 **Sec. 2. 20-A MRSA §13020, sub-§3,** as enacted by PL 1983, c. 845, §4, is
9 amended to read:

10 **3. Denial of certificate for prior immoral or prohibited conduct.** Evidence that an
11 applicant for initial certification or renewal has injured the health or welfare of a child
12 through physical or sexual abuse or exploitation within the last 5 years is grounds for a
13 denial of a certificate. Evidence that an applicant for initial certification or renewal as a
14 school psychologist or guidance counselor has advertised, offered or administered
15 conversion therapy as defined in Title 32, section 59-C, subsection 1 to a child is grounds
16 for a denial of a certificate. Notwithstanding Title 5, chapter 341, every person, who,
17 within 5 years of the application for initial certification or renewal, has been convicted in
18 any state or federal court of a criminal offense involving the physical or sexual abuse or
19 exploitation of a child, may be presumed by the commissioner to lack good moral
20 character for the purposes of this chapter. This presumption ~~shall be~~ is a rebuttable
21 presumption. Notwithstanding Title 5, chapter 341, the commissioner ~~shall be~~ is entitled
22 to consider all records of prior criminal convictions involving child abuse or exploitation
23 in determining an applicant's eligibility for a certificate.

24 **Sec. 3. 22 MRSA §3174-BBB** is enacted to read:

25 **§3174-BBB. Coverage for conversion therapy**

26 The department may not provide MaineCare reimbursement for conversion therapy
27 as defined in Title 32, section 59-C, subsection 1 administered to a minor.

28 **Sec. 4. 32 MRSA §59-C** is enacted to read:

29 **§59-C. Definitions**

30 As used in this Title, unless the context otherwise indicates, the following terms have
31 the following meanings.

32 **1. Conversion therapy.** "Conversion therapy" means any practice or treatment that
33 seeks or purports to change an individual's sexual orientation or gender identity,
34 including, but not limited to, any effort to change gender expression or to eliminate or
35 reduce sexual or romantic attractions, feelings or behavior toward individuals of the same
36 gender. "Conversion therapy" does not include the following:

1 A. Any practice or treatment that assists an individual undergoing a gender
2 transition;

3 B. Any practice or treatment that provides acceptance, support and understanding to
4 an individual; and

5 C. Any practice or treatment that facilitates an individual's coping, social support or
6 identity exploration and development, including any therapeutic treatment such as
7 talk therapy that is neutral with regard to sexual orientation and gender identity and
8 that seeks to prevent or address unlawful conduct or unsafe sexual practices, as long
9 as the counseling does not seek to change the individual's sexual orientation or gender
10 identity.

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

13 **Sec. 5. 32 MRSA §2105-A, sub-§2, ¶I**, as amended by PL 2015, c. 488, §11, is
14 further amended to read:

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

16 **Sec. 6. 32 MRSA §2105-A, sub-§2, ¶J**, as enacted by PL 2015, c. 488, §12, is
17 amended to read:

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

19 **Sec. 7. 32 MRSA §2105-A, sub-§2, ¶K** is enacted to read:

20 K. A violation of section 2112.

21 **Sec. 8. 32 MRSA §2112** is enacted to read:

22 **§2112. Prohibition on providing conversion therapy to minors**

23 An individual licensed or certified under this chapter may not advertise, offer or
24 administer conversion therapy to a minor.

25 **Sec. 9. 32 MRSA §2591-A, sub-§2, ¶N**, as amended by PL 2015, c. 488, §15, is
26 further amended to read:

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

33 **Sec. 10. 32 MRSA §2591-A, sub-§2, ¶O**, as enacted by PL 2015, c. 488, §16, is
34 amended to read:

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

36 **Sec. 11. 32 MRSA §2591-A, sub-§2, ¶P** is enacted to read:

1 P. A violation of section 2600-D.

2 **Sec. 12. 32 MRSA §2600-D** is enacted to read:

3 **§2600-D. Prohibition on providing conversion therapy to minors**

4 An individual licensed under this chapter may not advertise, offer or administer
5 conversion therapy to a minor.

6 **Sec. 13. 32 MRSA §3282-A, sub-§2, ¶R**, as amended by PL 2015, c. 488, §18,
7 is further amended to read:

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

9 **Sec. 14. 32 MRSA §3282-A, sub-§2, ¶S**, as enacted by PL 2015, c. 488, §19, is
10 amended to read:

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

12 **Sec. 15. 32 MRSA §3282-A, sub-§2, ¶T** is enacted to read:

13 T. A violation of section 3300-G.

14 **Sec. 16. 32 MRSA §3300-G** is enacted to read:

15 **§3300-G. Prohibition on providing conversion therapy to minors**

16 An individual licensed, registered or certified under this chapter may not advertise,
17 offer or administer conversion therapy to a minor.

18 **Sec. 17. 32 MRSA §3837-A, sub-§1, ¶¶E and F**, as enacted by PL 2007, c.
19 402, Pt. Q, §14, are amended to read:

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

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

24 **Sec. 18. 32 MRSA §3837-A, sub-§1, ¶G** is enacted to read:

25 G. A violation of section 3837-B.

26 **Sec. 19. 32 MRSA §3837-B** is enacted to read:

27 **§3837-B. Prohibition on providing conversion therapy to minors**

28 An individual licensed under this chapter may not advertise, offer or administer
29 conversion therapy to a minor.

30 **Sec. 20. 32 MRSA §6217-B, sub-§1**, as amended by PL 2017, c. 407, Pt. A,
31 §138, is further amended to read:

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

3 **Sec. 21. 32 MRSA §6217-B, sub-§2**, as enacted by PL 2007, c. 402, Pt. U, §12,
4 is amended to read:

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

6 **Sec. 22. 32 MRSA §6217-B, sub-§3** is enacted to read:

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

8 **Sec. 23. 32 MRSA §6223** is enacted to read:

9 **§6223. Prohibition on providing conversion therapy to minors**

10 An individual licensed, certified or registered under this chapter may not advertise,
11 offer or administer conversion therapy to a minor.

12 **Sec. 24. 32 MRSA §7006** is enacted to read:

13 **§7006. Prohibition on providing conversion therapy to minors**

14 An individual licensed under this chapter may not advertise, offer or administer
15 conversion therapy to a minor.

16 **Sec. 25. 32 MRSA §7059-A, sub-§§1 and 2**, as enacted by PL 2007, c. 402, Pt.
17 V, §14, are amended to read:

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

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

24 **Sec. 26. 32 MRSA §7059-A, sub-§3** is enacted to read:

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

26 **Sec. 27. 32 MRSA §13742-A, sub-§1, ¶D**, as amended by PL 2017, c. 434, §2,
27 is further amended to read:

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

29 **Sec. 28. 32 MRSA §13742-A, sub-§1, ¶E**, as enacted by PL 2017, c. 434, §3, is
30 amended to read:

31 E. Failing to comply with section 13800; or

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

1 F. A violation of section 13800-B.

2 **Sec. 30. 32 MRSA §13800-B** is enacted to read:

3 **§13800-B. Prohibition on providing conversion therapy to minors**

4 An individual licensed under this chapter may not advertise, offer or administer
5 conversion therapy to a minor.

6 **Sec. 31. 32 MRSA §13861-A, sub-§1, ¶¶B and C**, as enacted by PL 2007, c.
7 402, Pt. EE, §9, are amended to read:

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

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

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

13 D. A violation of section 13866.

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

15 **§13866. Prohibition on providing conversion therapy to minors**

16 An individual licensed under this chapter may not advertise, offer or administer
17 conversion therapy to a minor.

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

20 **1. Unfair and deceptive practices.** Engaging in unfair or deceptive practices as
21 defined by the rules established by the board or violating the code of ethics adopted and
22 published by the board, including selling or causing to be sold a hearing aid to a person
23 who has not been given tests such as pure tone, air and bone audiometry or other hearing
24 assessments as determined by the board. The results of these tests must be permanently
25 filed; ~~or~~

26 **2. Negligence.** Incompetence, negligence or neglect in the conduct of the practice of
27 dealing in and fitting of hearing aids, including, but not limited to, the improper fitting of
28 a hearing aid, the sale of a hearing aid to a person with normal hearing, making an ear
29 mold impression or fitting an ear mold without prior inspection of the external ear canal,
30 making an ear mold impression or fitting an ear mold after prior inspection revealed the
31 presence of, or impacted, cerumen in the ear canal, the failure to indicate the need for
32 medical or audiological evaluation when the prospective purchaser's history reveals a
33 probable risk of disease or progressive hearing impairment, the failure to make the
34 required medical referrals, the incorrect reporting of hearing test results to a person, the
35 failure to be present to fit the final hearing aid in the ear of the purchaser and the
36 tampering with a satisfactorily performing hearing aid owned by a purchaser or potential
37 purchaser to cause that hearing aid to no longer perform correctly; or

1 **Sec. 35. 32 MRSA §17307, sub-§3** is enacted to read:

2 **3. Prohibited conduct.** A violation of section 17311.

3 **Sec. 36. 32 MRSA §17311** is enacted to read:

4 **§17311. Prohibition on providing conversion therapy to minors**

5 An individual licensed under this chapter may not advertise, offer or administer
6 conversion therapy to a minor.

7 **Sec. 37. Legislative findings; legislative intent.**

8 **1. Legislative findings.** The Legislature finds that:

9 A. Conversion therapy is a practice or treatment, including but not limited to talk
10 therapy, that seeks or purports to change a person's sexual orientation or gender
11 identity. It is referred to by several names, including sexual orientation change
12 efforts, reparative therapy and reintegrative therapy;

13 B. A wide range of the major health and mental health associations in the United
14 States recognize being lesbian, gay, bisexual or transgender and having same-sex
15 sexual attractions as normal variants of human sexuality and gender identity, rather
16 than an illness or developmental disorder;

17 C. The medical and social science consensus is that conversion therapy is a harmful
18 and ineffective practice or treatment. Conversion therapy is based on the false
19 premise that being lesbian, gay, bisexual or transgender is a mental illness or disorder
20 and is caused by a developmental deficiency, trauma, abuse or unmet emotional
21 needs and that conversion therapy can alter a person's sexual orientation or gender
22 identity;

23 D. There is no competent and reliable scientific evidence supporting claims that
24 conversion therapy can change an individual's sexual orientation; rather, there is
25 substantial competent and reliable scientific evidence that conversion therapy is
26 ineffective and can and often does result in significant health and safety risks to
27 consumers of those services, including depression, guilt, helplessness, hopelessness,
28 shame, social withdrawal, suicidality and substance abuse, as well as economic
29 losses;

30 E. The nation's leading medical and mental health professional organizations,
31 including the American School Counselor Association, the American Psychiatric
32 Association, the American Psychological Association, the American Psychoanalytic
33 Association, the American Counseling Association Governing Council, the American
34 Medical Association, the American Academy of Pediatrics, the American Academy
35 of Family Physicians, the National Association of Social Workers and the Pan
36 American Health Organization have concluded that conversion therapy is both
37 ineffective in changing sexual orientation or gender identity and poses safety and
38 health risks; and

39 F. The State has a compelling interest in protecting the physical and psychological
40 well-being of minors, including the State's lesbian, gay, bisexual and transgender

1 youth and those youth seeking to examine or understand their sexual orientation or
2 gender identity, from the advertising, offering and administering of conversion
3 therapy and in protecting its minors from the serious health and safety harms that
4 conversion therapy can cause.

5 **2. Legislative intent.** It is the intent of the Legislature to protect the public health
6 and the safety of the lesbian, gay, bisexual and transgender youth of the State, and those
7 youth of the State who are seeking to examine or understand their sexual orientation or
8 gender identity, by prohibiting the advertising, offering and administering of therapy
9 designed to change a person's sexual orientation or gender identity, also known as
10 conversion therapy, to individuals under 18 years of age in the State.

11 **SUMMARY**

12 This bill does the following.

13 1. It defines "conversion therapy" as any practice or course of treatment that seeks or
14 purports to change an individual's sexual orientation or gender identity, except for any
15 practice or treatment that assists an individual undergoing a gender transition; any
16 practice or treatment that provides acceptance, support and understanding to an
17 individual; and any practice or treatment that facilitates an individual's coping, social
18 support or identity exploration and development, including any therapeutic intervention
19 that is neutral with regard to sexual orientation or gender identity, and that seeks to
20 prevent or address unlawful conduct or unsafe sexual practices, as long as the counseling
21 does not seek to change the individual's sexual orientation or gender identity.

22 2. It prohibits certified school psychologists and guidance counselors, nurses,
23 doctors, physician assistants, psychologists, psychological examiners, alcohol and drug
24 counselors and aides, social workers, pharmacists and pharmacy technicians, professional
25 counselors, marriage and family therapists, pastoral counselors, speech-language
26 pathologists and assistants and audiologists from advertising, offering or administering
27 conversion therapy to individuals under 18 years of age. Advertising, offering or
28 administering conversion therapy to an individual under 18 years of age in violation of
29 this prohibition is grounds for discipline of the professional by the department or board
30 that issued the professional's license, certification or registration, including but not
31 limited to suspension or revocation of the license, certification or registration.

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

34 4. It includes a statement of legislative findings and intent.