

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."