

AMENDMENTS TO LB574

Introduced by Kauth, 31.

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

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

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

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

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

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

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

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

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

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

27 (15) Performing gender-reassignment surgery for an individual  
28 younger than nineteen years of age in violation of section 2 of this act;  
29 and

30 (16) ~~(15)~~ Such other acts as may be defined in rules and  
31 regulations.

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

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

5           (a) Biological sex means the biological indication of male and  
6 female in the context of reproductive potential or capacity, such as sex  
7 chromosomes, naturally occurring sex hormones, gonads, and nonambiguous  
8 internal and external genitalia present at birth, without regard to an  
9 individual's psychological, chosen, or subjective experience of gender;

10           (b) Gender means the psychological, behavioral, social, and cultural  
11 aspects of being male or female;

12           (c) Gender transition means the process in which a person goes from  
13 identifying with and living as a gender that corresponds to the person's  
14 biological sex to identifying with and living as a gender different from  
15 the person's biological sex and may involve social, legal, or physical  
16 changes;

17           (d) Irreversible gender-reassignment surgery means a medical  
18 procedure performed for the purpose of assisting an individual with a  
19 gender transition, including any of the following:

20           (i) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, or  
21 vulvoplasty for biologically male patients or hysterectomy or ovariectomy  
22 for biologically female patients;

23           (ii) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or  
24 implantation of erection or testicular prostheses for biologically female  
25 patients; or

26           (iii) Augmentation mammoplasty for biologically male patients and  
27 subcutaneous mastectomy for biologically female patients; and

28           (e) Physician means a person who is licensed as a physician pursuant  
29 to the Medicine and Surgery Practice Act.

30           (2) A physician shall not provide irreversible gender-reassignment  
31 surgery to any individual who is under nineteen years of age.

1           (3) A physician may provide any of the following to an individual  
2 who is under nineteen years of age:

3           (a) Services to an individual born with a medically verifiable  
4 disorder of sex development, including an individual with external  
5 biological sex characteristics that are irresolvably ambiguous, such as  
6 being born with forty-six XX chromosomes with virilization or forty-six  
7 XY chromosomes with undervirilization or having both ovarian and  
8 testicular tissue;

9           (b) Services provided when a physician has otherwise diagnosed a  
10 disorder of sexual development and has determined through genetic or  
11 biochemical testing that the individual does not have normal sex  
12 chromosome structure, sex steroid hormone production, or sex steroid  
13 hormone action;

14           (c) The treatment of any infection, injury, disease, or disorder  
15 that has been caused by or exacerbated by the performance of gender  
16 transition procedures, whether or not the gender transition procedure was  
17 performed in accordance with state and federal law; or

18           (d) Any procedure undertaken because the individual suffers from a  
19 physical disorder, physical injury, or physical illness that would, as  
20 certified by a physician, place the individual in imminent danger of  
21 death or impairment of major bodily function unless surgery is performed.

22           Sec. 3.   Original section 38-179, Revised Statutes Cumulative  
23 Supplement, 2022, is repealed.