

By: Menéndez

S.B. No. 97

A BILL TO BE ENTITLED

AN ACT

1
2 relating to unprofessional conduct by mental health providers who
3 attempt to change the sexual orientation of a child; providing
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading to Chapter 105, Occupations Code, is
7 amended to read as follows:

8 CHAPTER 105. UNPROFESSIONAL CONDUCT BY CERTAIN PROVIDERS [~~HEALTH~~
9 ~~CARE PROVIDER~~]

10 SECTION 2. Chapter 105, Occupations Code, is amended by
11 designating Sections 105.001 and 105.002 as Subchapter A and adding
12 a subchapter heading to read as follows:

13 SUBCHAPTER A. UNPROFESSIONAL CONDUCT BY HEALTH CARE PROVIDER

14 SECTION 3. Section 105.001, Occupations Code, is amended to
15 read as follows:

16 Sec. 105.001. DEFINITION. In this subchapter [~~chapter~~],
17 "health care provider" means a person who furnishes services under
18 a license, certificate, registration, or other authority issued by
19 this state or another state to diagnose, prevent, alleviate, or
20 cure a human illness or injury.

21 SECTION 4. Chapter 105, Occupations Code, is amended by
22 adding Subchapter B to read as follows:

23 SUBCHAPTER B. UNPROFESSIONAL CONDUCT BY MENTAL HEALTH PROVIDER

24 Sec. 105.051. DEFINITIONS. In this subchapter:

1 (1) "Child" means an individual younger than 18 years
2 of age.

3 (2) "Gender identity or expression" means a person's
4 actual or perceived gender-related identity, appearance,
5 expression, or behavior, whether or not that identity, appearance,
6 expression, or behavior is different from that commonly associated
7 with the person's sex as designated at birth.

8 (3) "Mental health provider" means:

9 (A) a behavior analyst licensed under Chapter
10 506;

11 (B) a chemical dependency counselor licensed
12 under Chapter 504;

13 (C) a licensed professional counselor licensed
14 under Chapter 503;

15 (D) a marriage and family therapist licensed
16 under Chapter 502;

17 (E) a nurse licensed under Chapter 301;

18 (F) a physician licensed under Subtitle B;

19 (G) a psychologist licensed under Chapter 501;

20 (H) a sex offender treatment provider licensed
21 under Chapter 110;

22 (I) a social worker licensed under Chapter 505;

23 (J) a special officer for offenders with mental
24 impairments certified under Section 1701.404; or

25 (K) another person licensed by this state to
26 provide professional therapy or counseling services.

27 (4) "Sexual orientation" means the actual or perceived

1 status of an individual with respect to the individual's sexuality.

2 Sec. 105.052. UNPROFESSIONAL CONDUCT. (a) A mental health
3 provider engages in unprofessional conduct if, in the course of
4 providing services to a child, the mental health provider attempts
5 any practice or treatment that seeks to:

6 (1) change the child's sexual orientation or gender
7 identity, including any effort to change gender-related behavior or
8 gender expression; or

9 (2) eliminate or reduce sexual or romantic attractions
10 or feelings toward persons of the same sex.

11 (b) Subsection (a) does not apply to counseling that:

12 (1) provides acceptance, support, and understanding
13 of a child or facilitates a child's coping, social support, and
14 identity exploration and development, including sexual
15 orientation-neutral interventions to prevent or address unlawful
16 conduct or unsafe sexual practices, if that counseling does not
17 seek to change sexual orientation or gender identity or expression;
18 or

19 (2) provides support to a child undergoing gender
20 transition in accordance with established standards of care.

21 (c) A mental health provider who commits unprofessional
22 conduct under Subsection (a) is subject to disciplinary action by
23 any state regulatory entity with the power to take disciplinary
24 action against that mental health provider.

25 SECTION 5. This Act takes effect September 1, 2021.