

**HOUSE BILL No. 2207**

By Committee on Health and Human Services

2-3

1 AN ACT concerning health and healthcare; relating to behavioral and  
2 mental health; prohibiting certain licensed individuals from using  
3 conversion therapy on minors; amending K.S.A. 65-2837 and 74-7507  
4 and K.S.A. 2020 Supp. 40-2,215, 40-2,216 and 65-1120 and repealing  
5 the existing sections.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) As used in this section:

9 (1) "Conversion therapy" means any practice or treatment that seeks  
10 to change an individual's sexual orientation or gender identity, including  
11 efforts to change behaviors or gender expressions or to eliminate or reduce  
12 sexual or romantic attractions or feelings toward individuals of the same  
13 sex or gender.

14 (2) "Conversion therapy" does not include any practice or treatment  
15 that:

16 (A) Provides assistance to an individual undergoing gender transition;

17 (B) provides acceptance, support and understanding of an individual's  
18 sexual orientation or gender identity, including such individual's gender  
19 expressions or sexual or romantic attractions or feelings toward individuals  
20 of the same sex or gender; or

21 (C) facilitates an individual's coping, social support and identity  
22 exploration and development, including sexual orientation-neutral  
23 interventions to prevent or address unlawful conduct or unsafe sexual  
24 practices, so long as such practice or treatment does not seek to change the  
25 individual's sexual orientation or gender identity.

26 (b) (1) The following licensees shall be prohibited from performing  
27 conversion therapy on any individual under 18 years of age:

28 (A) Persons licensed by the state board of healing arts;

29 (B) persons licensed by the board of nursing; and

30 (C) persons licensed by the behavioral sciences regulatory board.

31 (2) Any practice of conversion therapy on any individual under 18  
32 years of age by any such licensee shall constitute unprofessional conduct  
33 and shall be subject to discipline by such licensee's respective regulatory  
34 board.

35 (3) The provisions of this subsection shall apply to delivery of  
36 telemedicine authorized by the telemedicine act under K.S.A. 40-2,210 et

1 seq., and amendments thereto.

2 (4) The provisions of this subsection shall not apply to the use of  
3 conversion therapy by a religious leader or official of any religious  
4 denomination that is:

5 (A) Part of such leader's or official's religious duties; and

6 (B) not performed under the authority of a license issued by any of  
7 the regulatory boards listed in paragraph (1).

8 Sec. 2. K.S.A. 2020 Supp. 65-1120 is hereby amended to read as  
9 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may  
10 deny, revoke, limit or suspend any license or authorization to practice  
11 nursing as a registered professional nurse, as a licensed practical nurse, as  
12 an advanced practice registered nurse or as a registered nurse anesthetist  
13 that is issued by the board or applied for under this act, or may require the  
14 licensee to attend a specific number of hours of continuing education in  
15 addition to any hours the licensee may already be required to attend or  
16 may publicly or privately censure a licensee or holder of a temporary  
17 permit or authorization, if the applicant, licensee or holder of a temporary  
18 permit or authorization is found after a hearing:

19 (1) To be guilty of fraud or deceit in practicing nursing or in  
20 procuring or attempting to procure a license to practice nursing;

21 (2) to have been guilty of a felony or to have been guilty of a  
22 misdemeanor involving an illegal drug offense unless the applicant or  
23 licensee establishes sufficient rehabilitation to warrant the public trust,  
24 except that notwithstanding K.S.A. 74-120, and amendments thereto, no  
25 license or authorization to practice nursing as a licensed professional  
26 nurse, as a licensed practical nurse, as an advanced practice registered  
27 nurse or registered nurse anesthetist shall be granted to a person with a  
28 felony conviction for a crime against persons as specified in article 34 of  
29 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article  
30 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp.  
31 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

32 (3) has been convicted or found guilty or has entered into an agreed  
33 disposition of a misdemeanor offense related to the practice of nursing as  
34 determined on a case-by-case basis;

35 (4) to have committed an act of professional incompetency as defined  
36 in subsection (e);

37 (5) to be unable to practice with skill and safety due to current abuse  
38 of drugs or alcohol;

39 (6) to be a person who has been adjudged in need of a guardian or  
40 conservator, or both, under the act for obtaining a guardian or conservator,  
41 or both, and who has not been restored to capacity under that act;

42 (7) to be guilty of unprofessional conduct as defined by rules and  
43 regulations of the board, *including the use of conversion therapy on a*

1 *minor in violation of section 1, and amendments thereto;*

2 (8) to have willfully or repeatedly violated the provisions of the  
3 Kansas nurse practice act or any rules and regulations adopted pursuant to  
4 that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

5 (9) to have a license to practice nursing as a registered nurse or as a  
6 practical nurse denied, revoked, limited or suspended, or to be publicly or  
7 privately censured, by a licensing authority of another state, agency of the  
8 United States government, territory of the United States or country or to  
9 have other disciplinary action taken against the applicant or licensee by a  
10 licensing authority of another state, agency of the United States  
11 government, territory of the United States or country. A certified copy of  
12 the record or order of public or private censure, denial, suspension,  
13 limitation, revocation or other disciplinary action of the licensing authority  
14 of another state, agency of the United States government, territory of the  
15 United States or country shall constitute prima facie evidence of such a  
16 fact for purposes of this paragraph~~(9)~~; or

17 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to  
18 its repeal, or K.S.A. 2020 Supp. 21-5407, and amendments thereto, as  
19 established by any of the following:

20 (A) A copy of the record of criminal conviction or plea of guilty for a  
21 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2020  
22 Supp. 21-5407, and amendments thereto;:

23 (B) a copy of the record of a judgment of contempt of court for  
24 violating an injunction issued under K.S.A. 2020 Supp. 60-4404, and  
25 amendments thereto;: *or*

26 (C) a copy of the record of a judgment assessing damages under  
27 K.S.A. 2020 Supp. 60-4405, and amendments thereto.

28 (b) *Proceedings.* Upon filing of a sworn complaint with the board  
29 charging a person with having been guilty of any of the unlawful practices  
30 specified in subsection (a), two or more members of the board shall  
31 investigate the charges, or the board may designate and authorize an  
32 employee or employees of the board to conduct an investigation. After  
33 investigation, the board may institute charges. If an investigation, in the  
34 opinion of the board, reveals reasonable grounds for believing the  
35 applicant or licensee is guilty of the charges, the board shall fix a time and  
36 place for proceedings, which shall be conducted in accordance with the  
37 provisions of the Kansas administrative procedure act.

38 (c) *Witnesses.* No person shall be excused from testifying in any  
39 proceedings before the board under this act or in any civil proceedings  
40 under this act before a court of competent jurisdiction on the ground that  
41 such testimony may incriminate the person testifying, but such testimony  
42 shall not be used against the person for the prosecution of any crime under  
43 the laws of this state except the crime of perjury as defined in K.S.A. 2020

1 Supp. 21-5903, and amendments thereto.

2 (d) *Costs*. If final agency action of the board in a proceeding under  
3 this section is adverse to the applicant or licensee, the costs of the board's  
4 proceedings shall be charged to the applicant or licensee as in ordinary  
5 civil actions in the district court, but if the board is the unsuccessful party,  
6 the costs shall be paid by the board. Witness fees and costs may be taxed  
7 by the board according to the statutes relating to procedure in the district  
8 court. All costs accrued by the board, when it is the successful party, and  
9 which the attorney general certifies cannot be collected from the applicant  
10 or licensee shall be paid from the board of nursing fee fund. All moneys  
11 collected following board proceedings shall be credited in full to the board  
12 of nursing fee fund.

13 (e) *Professional incompetency defined*. As used in this section,  
14 "professional incompetency" means:

15 (1) One or more instances involving failure to adhere to the  
16 applicable standard of care to a degree which constitutes gross negligence,  
17 as determined by the board;

18 (2) repeated instances involving failure to adhere to the applicable  
19 standard of care to a degree which constitutes ordinary negligence, as  
20 determined by the board; or

21 (3) a pattern of practice or other behavior which demonstrates a  
22 manifest incapacity or incompetence to practice nursing.

23 (f) *Criminal justice information*. The board upon request shall receive  
24 from the Kansas bureau of investigation such criminal history record  
25 information relating to arrests and criminal convictions as necessary for  
26 the purpose of determining initial and continuing qualifications of  
27 licensees of and applicants for licensure by the board.

28 Sec. 3. K.S.A. 65-2837 is hereby amended to read as follows: 65-  
29 2837. As used in K.S.A. 65-2836, and amendments thereto, and in this  
30 section:

31 (a) "Professional incompetency" means:

32 (1) One or more instances involving failure to adhere to the  
33 applicable standard of care to a degree that constitutes gross negligence, as  
34 determined by the board.

35 (2) Repeated instances involving failure to adhere to the applicable  
36 standard of care to a degree that constitutes ordinary negligence, as  
37 determined by the board.

38 (3) A pattern of practice or other behavior that demonstrates a  
39 manifest incapacity or incompetence to practice the healing arts.

40 (b) "Unprofessional conduct" means:

41 (1) Solicitation of professional patronage through the use of  
42 fraudulent or false advertisements, or profiting by the acts of those  
43 representing themselves to be agents of the licensee.

- 1 (2) Representing to a patient that a manifestly incurable disease,  
2 condition or injury can be permanently cured.
- 3 (3) Assisting in the care or treatment of a patient without the consent  
4 of the patient, the attending physician or the patient's legal representatives.
- 5 (4) The use of any letters, words or terms as an affix, on stationery, in  
6 advertisements or otherwise indicating that such person is entitled to  
7 practice a branch of the healing arts for which such person is not licensed.
- 8 (5) Performing, procuring or aiding and abetting in the performance  
9 or procurement of a criminal abortion.
- 10 (6) Willful betrayal of confidential information.
- 11 (7) Advertising professional superiority or the performance of  
12 professional services in a superior manner.
- 13 (8) Advertising to guarantee any professional service or to perform  
14 any operation painlessly.
- 15 (9) Participating in any action as a staff member of a medical care  
16 facility that is designed to exclude or that results in the exclusion of any  
17 person licensed to practice medicine and surgery from the medical staff of  
18 a nonprofit medical care facility licensed in this state because of the  
19 branch of the healing arts practiced by such person or without just cause.
- 20 (10) Failure to effectuate the declaration of a qualified patient as  
21 provided in K.S.A. 65-28,107(a), and amendments thereto.
- 22 (11) Prescribing, ordering, dispensing, administering, selling,  
23 supplying or giving any amphetamines or sympathomimetic amines,  
24 except as authorized by K.S.A. 65-2837a, and amendments thereto.
- 25 (12) Conduct likely to deceive, defraud or harm the public.
- 26 (13) Making a false or misleading statement regarding the licensee's  
27 skill or the efficacy or value of the drug, treatment or remedy prescribed  
28 by the licensee or at the licensee's direction in the treatment of any disease  
29 or other condition of the body or mind.
- 30 (14) Aiding or abetting the practice of the healing arts by an  
31 unlicensed, incompetent or impaired person.
- 32 (15) Allowing another person or organization to use the licensee's  
33 license to practice the healing arts.
- 34 (16) Commission of any act of sexual abuse, misconduct or other  
35 improper sexual contact that exploits the licensee-patient relationship with  
36 a patient or a person responsible for health care decisions concerning such  
37 patient.
- 38 (17) The use of any false, fraudulent or deceptive statement in any  
39 document connected with the practice of the healing arts including the  
40 intentional falsifying or fraudulent altering of a patient or medical care  
41 facility record.
- 42 (18) Obtaining any fee by fraud, deceit or misrepresentation.
- 43 (19) Directly or indirectly giving or receiving any fee, commission,

1 rebate or other compensation for professional services not actually and  
2 personally rendered, other than through the legal functioning of lawful  
3 professional partnerships, corporations, limited liability companies or  
4 associations.

5 (20) Failure to transfer patient records to another licensee when  
6 requested to do so by the subject patient or by such patient's legally  
7 designated representative.

8 (21) Performing unnecessary tests, examinations or services that have  
9 no legitimate medical purpose.

10 (22) Charging an excessive fee for services rendered.

11 (23) Prescribing, dispensing, administering or distributing a  
12 prescription drug or substance, including a controlled substance, in an  
13 improper or inappropriate manner, or for other than a valid medical  
14 purpose, or not in the course of the licensee's professional practice.

15 (24) Repeated failure to practice healing arts with that level of care,  
16 skill and treatment that is recognized by a reasonably prudent similar  
17 practitioner as being acceptable under similar conditions and  
18 circumstances.

19 (25) Failure to keep written medical records that accurately describe  
20 the services rendered to the patient, including patient histories, pertinent  
21 findings, examination results and test results.

22 (26) Delegating professional responsibilities to a person when the  
23 licensee knows or has reason to know that such person is not qualified by  
24 training, experience or licensure to perform them.

25 (27) Using experimental forms of therapy without proper informed  
26 patient consent, without conforming to generally accepted criteria or  
27 standard protocols, without keeping detailed legible records or without  
28 having periodic analysis of the study and results reviewed by a committee  
29 or peers.

30 (28) Prescribing, dispensing, administering or distributing an anabolic  
31 steroid or human growth hormone for other than a valid medical purpose.  
32 Bodybuilding, muscle enhancement or increasing muscle bulk or strength  
33 through the use of an anabolic steroid or human growth hormone by a  
34 person who is in good health is not a valid medical purpose.

35 (29) Referring a patient to a health care entity for services if the  
36 licensee has a significant investment interest in the health care entity,  
37 unless the licensee informs the patient in writing of such significant  
38 investment interest and that the patient may obtain such services  
39 elsewhere.

40 (30) Failing to properly supervise, direct or delegate acts that  
41 constitute the healing arts to persons who perform professional services  
42 pursuant to such licensee's direction, supervision, order, referral,  
43 delegation or practice protocols.

1 (31) Violating K.S.A. 65-6703, and amendments thereto.

2 (32) Charging, billing or otherwise soliciting payment from any  
3 patient, patient's representative or insurer for anatomic pathology services,  
4 if such services are not personally rendered by the licensee or under such  
5 licensee's direct supervision. As used in this subsection, "anatomic  
6 pathology services" means the gross or microscopic examination of  
7 histologic processing of human organ tissue or the examination of human  
8 cells from fluids, aspirates, washings, brushings or smears, including blood  
9 banking services, and subcellular or molecular pathology services,  
10 performed by or under the supervision of a person licensed to practice  
11 medicine and surgery or a clinical laboratory. Nothing in this subsection  
12 shall be construed to prohibit billing for anatomic pathology services by:

13 (A) A hospital;

14 (B) a clinical laboratory when samples are transferred between  
15 clinical laboratories for the provision of anatomic pathology services; or

16 (C) a physician providing services to a patient pursuant to a medical  
17 retainer agreement in compliance with K.S.A. 65-4978, and amendments  
18 thereto, when the bill to the patient for such services:

19 (i) Identifies the laboratory or physician that performed the services;

20 (ii) discloses in writing to the patient the actual amount charged by  
21 the physician or laboratory that performed the service; and

22 (iii) is consistent with rules and regulations adopted by the board for  
23 appropriate billing standards applicable to such services when furnished  
24 under these agreements.

25 (33) Engaging in conduct that violates patient trust and exploits the  
26 licensee-patient relationship for personal gain.

27 (34) Obstructing a board investigation including, but not limited to,  
28 engaging in one or more of the following acts:

29 (A) Falsifying or concealing a material fact;

30 (B) knowingly making or causing to be made any false or misleading  
31 statement or writing; or

32 (C) other acts or conduct likely to deceive or defraud the board.

33 (35) *Using conversion therapy on a minor in violation of section 1,*  
34 *and amendments thereto.*

35 (c) "False advertisement" means any advertisement that is false,  
36 misleading or deceptive in a material respect. In determining whether any  
37 advertisement is misleading, there shall be taken into account not only  
38 representations made or suggested by statement, word, design, device,  
39 sound or any combination thereof, but also the extent to which the  
40 advertisement fails to reveal facts material in the light of such  
41 representations made.

42 (d) "Advertisement" means all representations disseminated in any  
43 manner or by any means for the purpose of inducing, or that are likely to

1 induce, directly or indirectly, the purchase of professional services.

2 (e) "Licensee" for purposes of this section and K.S.A. 65-2836, and  
3 amendments thereto, means all persons issued a license, permit or special  
4 permit pursuant to article 28 of chapter 65 of the Kansas Statutes  
5 Annotated, and amendments thereto.

6 (f) "License" for purposes of this section and K.S.A. 65-2836, and  
7 amendments thereto, means any license, permit or special permit granted  
8 under article 28 of chapter 65 of the Kansas Statutes Annotated, and  
9 amendments thereto.

10 (g) "Health care entity" means any corporation, firm, partnership or  
11 other business entity that provides services for diagnosis or treatment of  
12 human health conditions and that is owned separately from a referring  
13 licensee's principle practice.

14 (h) "Significant investment interest" means ownership of at least 10%  
15 of the value of the firm, partnership or other business entity that owns or  
16 leases the health care entity, or ownership of at least 10% of the shares of  
17 stock of the corporation that owns or leases the health care entity.

18 Sec. 4. K.S.A. 74-7507 is hereby amended to read as follows: 74-  
19 7507. (a) The behavioral sciences regulatory board shall have the  
20 following powers, duties and functions:

21 (1) Recommend to the appropriate district or county attorneys  
22 prosecution for violations of this act, the licensure of psychologists act of  
23 the state of Kansas, the professional counselors licensure act, the social  
24 workers licensure act, the licensure of master's level psychologists act, the  
25 applied behavior analysis licensure act, the marriage and family therapists  
26 licensure act or the addiction counselor licensure act;

27 (2) compile and publish annually a list of the names and addresses of  
28 all persons who are licensed under this act, are licensed under the licensure  
29 of psychologists act of the state of Kansas, the professional counselors  
30 licensure act, the social workers licensure act, the licensure of master's  
31 level psychologists act, the applied behavior analysis licensure act, the  
32 marriage and family therapists licensure act or the addiction counselor  
33 licensure act;

34 (3) prescribe the form and contents of examinations required under  
35 this act, the licensure of psychologists act of the state of Kansas, the  
36 professional counselors licensure act, the social workers licensure act, the  
37 licensure of master's level psychologists act, the applied behavior analysis  
38 licensure act, the marriage and family therapists licensure act or the  
39 addiction counselor licensure act;

40 (4) enter into contracts necessary to administer this act, the licensure  
41 of psychologists act of the state of Kansas, the professional counselors  
42 licensure act, the social workers licensure act, the licensure of master's  
43 level psychologists act, the applied behavior analysis licensure act, the



1 marriage and family therapists licensure act or the addiction counselor  
2 licensure act;

3 (5) adopt an official seal;

4 (6) adopt and enforce rules and regulations for professional conduct  
5 of persons licensed under the licensure of psychologists act of the state of  
6 Kansas, the professional counselors licensure act, the social workers  
7 licensure act, the licensure of master's level psychologists act, the applied  
8 behavior analysis licensure act, the marriage and family therapists  
9 licensure act or the addiction counselor licensure act;

10 (7) adopt and enforce rules and regulations establishing requirements  
11 for the continuing education of persons licensed under the licensure of  
12 psychologists act of the state of Kansas, the professional counselors  
13 licensure act, the social workers licensure act, the licensure of master's  
14 level psychologists act, the applied behavior analysis licensure act, the  
15 marriage and family therapists licensure act or the addiction counselor  
16 licensure act;

17 (8) adopt rules and regulations establishing classes of social work  
18 specialties which will be recognized for licensure under K.S.A. 65-6301 to  
19 65-6318, inclusive, and amendments thereto;

20 (9) adopt rules and regulations establishing procedures for  
21 examination of candidates for licensure under the licensure of  
22 psychologists act of the state of Kansas, the professional counselors  
23 licensure act, the social workers licensure act, the licensure of master's  
24 level psychologists act, the applied behavior analysis licensure act, the  
25 marriage and family therapists licensure act, the addiction counselor  
26 licensure act and for issuance of such certificates and such licenses;

27 (10) adopt rules and regulations as may be necessary for the  
28 administration of this act, the licensure of psychologists act of the state of  
29 Kansas, the professional counselors licensure act, the social workers  
30 licensure act, the licensure of master's level psychologists act, the applied  
31 behavior analysis licensure act, the marriage and family therapists  
32 licensure act and the addiction counselor licensure act and to carry out the  
33 purposes thereof;

34 (11) appoint an executive director and other employees as provided in  
35 K.S.A. 74-7501, and amendments thereto; and

36 (12) exercise such other powers and perform such other functions and  
37 duties as may be prescribed by law.

38 (b) *Any rules and regulations adopted pursuant to this section*  
39 *concerning professional conduct shall prohibit any use of conversion*  
40 *therapy on a minor that would be in violation of section 1, and*  
41 *amendments thereto.*

42 (c) If an order of the behavioral sciences regulatory board is adverse  
43 to a licensee or registrant of the board, the actual costs shall be charged to

1 such person as in ordinary civil actions in the district court. The board  
2 shall pay any additional costs and, if the board is the unsuccessful party,  
3 the costs shall be paid by the board. Witness fees and costs may be taxed  
4 in accordance with statutes governing taxation of witness fees and costs in  
5 the district court.

6 Sec. 5. K.S.A. 2020 Supp. 40-2,215 is hereby amended to read as  
7 follows: 40-2,215. Nothing in the Kansas telemedicine act shall be  
8 construed to authorize the delivery of any *of the following practices via*  
9 *telemedicine*:

10 (a) *Any abortion procedure* ~~via telemedicine~~; *or*

11 (b) *conversion therapy used on a minor, as defined in section 1, and*  
12 *amendments thereto.*

13 Sec. 6. K.S.A. 2020 Supp. 40-2,216 is hereby amended to read as  
14 follows: 40-2,216. If any provision of the Kansas telemedicine act, or the  
15 application thereof to any person or circumstance, is held invalid or  
16 unconstitutional by court order, then the remainder of the Kansas  
17 telemedicine act and the application of such provision to other persons or  
18 circumstances shall not be affected thereby and it shall be conclusively  
19 presumed that the legislature would have enacted the remainder of the  
20 Kansas telemedicine act without such invalid or unconstitutional  
21 provision, except that the provisions of K.S.A. 2020 Supp. 40-2,215(a),  
22 and amendments thereto, are expressly declared to be nonseverable.

23 Sec. 7. K.S.A. 65-2837 and 74-7507 and K.S.A. 2020 Supp. 40-  
24 2,215, 40-2,216 and 65-1120 are hereby repealed.

25 Sec. 8. This act shall take effect and be in force from and after its  
26 publication in the statute book.