

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Wellness and Oversight for Psychological Resources Act.

Section 5. Purpose. The purpose of this Act is to safeguard individuals seeking therapy or psychotherapy services by ensuring these services are delivered by qualified, licensed, or certified professionals. This Act is intended to protect consumers from unlicensed or unqualified providers, including unregulated artificial intelligence systems, while respecting individual choice and access to community-based and faith-based mental health support.

Section 10. Definitions. In this Act:

"Administrative support" means tasks performed to assist a licensed professional in the delivery of therapy or psychotherapy services that do not involve communication. "Administrative support" includes, but is not limited to, the following:

- (1) managing appointment scheduling and reminders;
- (2) processing billing and insurance claims; and
- (3) drafting general communications related to therapy

logistics that do not include therapeutic advice.

"Artificial intelligence" has the meaning given to that term in Section 2-101 of the Illinois Human Rights Act.

"Consent" means a clear, explicit affirmative act by an individual that: (i) unambiguously communicates the individual's express, freely given, informed, voluntary, specific, and unambiguous written agreement, including a written agreement provided by electronic means, and (ii) is revocable by the individual. "Consent" does not include an agreement that is obtained by the following:

- (1) the acceptance of a general or broad terms of use agreement or a similar document that contains descriptions of artificial intelligence along with other unrelated information;

- (2) an individual hovering over, muting, pausing, or closing a given piece of digital content; or

- (3) an agreement obtained through the use of deceptive actions.

"Department" means the Department of Financial and Professional Regulation.

"Licensed professional" means an individual who holds a valid license issued by this State to provide therapy or psychotherapy services, including:

- (1) a licensed clinical psychologist;
- (2) a licensed clinical social worker;
- (3) a licensed social worker;

- (4) a licensed professional counselor;
- (5) a licensed clinical professional counselor;
- (6) a licensed marriage and family therapist;
- (7) a certified alcohol and other drug counselor authorized to provide therapy or psychotherapy services;
- (8) a licensed professional music therapist;
- (9) a licensed advanced practice psychiatric nurse as defined in Section 1-101.3 of the Mental Health and Developmental Disabilities Code; and
- (10) any other professional authorized by this State to provide therapy or psychotherapy services, except for a physician.

"Peer support" means services provided by individuals with lived experience of mental health conditions or recovery from substance use that are intended to offer encouragement, understanding, and guidance without clinical intervention.

"Religious counseling" means counseling provided by clergy members, pastoral counselors, or other religious leaders acting within the scope of their religious duties if the services are explicitly faith-based and are not represented as clinical mental health services or therapy or psychotherapy services.

"Supplementary support" means tasks performed to assist a licensed professional in the delivery of therapy or psychotherapy services that do not involve therapeutic communication and that are not administrative support.

"Supplementary support" includes, but is not limited to, the following:

- (1) preparing and maintaining client records, including therapy notes;

- (2) analyzing anonymized data to track client progress or identify trends, subject to review by a licensed professional; and

- (3) identifying and organizing external resources or referrals for client use.

"Therapeutic communication" means any verbal, non-verbal, or written interaction conducted in a clinical or professional setting that is intended to diagnose, treat, or address an individual's mental, emotional, or behavioral health concerns.

"Therapeutic communication" includes, but is not limited to:

- (1) direct interactions with clients for the purpose of understanding or reflecting their thoughts, emotions, or experiences;

- (2) providing guidance, therapeutic strategies, or interventions designed to achieve mental health outcomes;

- (3) offering emotional support, reassurance, or empathy in response to psychological or emotional distress;

- (4) collaborating with clients to develop or modify therapeutic goals or treatment plans; and

- (5) offering behavioral feedback intended to promote psychological growth or address mental health conditions.

"Therapy or psychotherapy services" means services provided to diagnose, treat, or improve an individual's mental health or behavioral health. "Therapy or psychotherapy services" does not include religious counseling or peer support.

Section 15. Permitted use of artificial intelligence.

(a) As used in this Section, "permitted use of artificial intelligence" means the use of artificial intelligence tools or systems by a licensed professional to assist in providing administrative support or supplementary support in therapy or psychotherapy services where the licensed professional maintains full responsibility for all interactions, outputs, and data use associated with the system and satisfies the requirements of subsection (b).

(b) No licensed professional shall be permitted to use artificial intelligence to assist in providing supplementary support in therapy or psychotherapy where the client's therapeutic session is recorded or transcribed unless:

(1) the patient or the patient's legally authorized representative is informed in writing of the following:

(A) that artificial intelligence will be used; and

(B) the specific purpose of the artificial intelligence tool or system that will be used; and

(2) the patient or the patient's legally authorized representative provides consent to the use of artificial

intelligence.

Section 20. Prohibition on unauthorized therapy services.

(a) An individual, corporation, or entity may not provide, advertise, or otherwise offer therapy or psychotherapy services, including through the use of Internet-based artificial intelligence, to the public in this State unless the therapy or psychotherapy services are conducted by an individual who is a licensed professional.

(b) A licensed professional may use artificial intelligence only to the extent the use meets the requirements of Section 15. A licensed professional may not allow artificial intelligence to do any of the following:

- (1) make independent therapeutic decisions;
- (2) directly interact with clients in any form of therapeutic communication;
- (3) generate therapeutic recommendations or treatment plans without review and approval by the licensed professional; or
- (4) detect emotions or mental states.

Section 25. Disclosure of records and communications. All records kept by a licensed professional and all communications between an individual seeking therapy or psychotherapy services and a licensed professional shall be confidential and shall not be disclosed except as required under the Mental

Health and Developmental Disabilities Confidentiality Act.

Section 30. Enforcement and penalties.

(a) Any individual, corporation, or entity found in violation of this Act shall pay a civil penalty to the Department in an amount not to exceed \$10,000 per violation, as determined by the Department, with penalties assessed based on the degree of harm and the circumstances of the violation. The civil penalty shall be assessed by the Department after a hearing is held in accordance with Section 2105-100 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. An individual, corporation, or entity found in violation of this Act shall pay the civil penalty within 60 days after the date of an order by the Department imposing the civil penalty. The order shall constitute a judgment and may be filed and executed in the same manner as any judgment from a court of record.

(b) The Department shall have authority to investigate any actual, alleged, or suspected violation of this Act.

Section 35. Exceptions. This Act does not apply to the following:

- (1) religious counseling;
- (2) peer support; and
- (3) self-help materials and educational resources that are available to the public and do not purport to offer

Public Act 104-0054

HB1806 Enrolled

LRB104 07364 AAS 17404 b

therapy or psychotherapy services.

Section 99. Effective date. This Act takes effect upon becoming law.