

# **Health Care Providers and Conversion Therapy Bans**

## **A Hypothetical Case Study**

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### **Author Note**

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### **Abstract**

Twenty states (CA, CO, CT, DE, HI, IL, ME, MA, MD, NV, NH, NJ, NM, NY, OR, RI, UT, VT, VA, WA, and also DC) and several dozen cities in other states have laws banning conversion therapy on children. These laws typically define conversion therapy as a “treatment or practice that seeks to change a person’s sexual orientation.” They typically define sexual orientation as “heterosexual, homosexual, or bisexual.” Nineteen of these 20 laws ban conversion therapy even if the child wants to change sexual orientation and requests the treatment or practice. Several national health professional organizations have also articulated positions in opposition to conversion therapy. This poses an obstacle for some health care providers and patients. If a boy tells a health care provider, “I have sexual urges for boys, but my life goal is to marry a woman,” do these laws and professional organization positions allow the health care provider to help the boy be romantically interested in a girl? Do they require the health care provider to refuse to help the boy be romantically interested in a girl? Do they require the health care provider to help the boy accept romance with a boy? These laws and professional organization positions are relatively new. The state laws all took effect since 2013, and most since 2017. There are few, if any, court decisions construing them. The professional organization statements all appear to be since 1998. Other than reading the law and these organizational position statements, there is little guidance for health care providers in these situations. This article discusses these laws and professional organization position statements in detail, envisions a typical scenario that may take place in a health care provider’s office, and provides some guidance to providers.

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## Origin of laws banning conversion therapy

From time immemorial, some people have had sex with people of the same sex, and some people have tried to persuade them not to (Herzog 1917). “According to the popular view,” Freud (1940) wrote, “human sexual life consists essentially in the impulse to bring one’s own genitals into contact with those of someone of the opposite sex,” with some “introductory acts” including kissing and other foreplay, “to serve the purposes of reproduction” (p. 25). People who had sex the “popular” way often tried to discourage homosexual (many now prefer the word “gay” to “homosexual”) contact. The discouragement took various forms. For many years, it took the form of punishment or threatened punishment, such as a prison sentence, for a man who committed the crime called “sodomy”: inserting his penis into the mouth or anus of a man. *Ex parte De Ford*, 168 P. 58 (Okla. Crim. 1917). Some people used the Bible or other religious books to discourage men from having sex with men. They told men that God will punish a man for having sex with a man. Some people sought, or were sent to, treatment by a professional who used therapy to help them desire sex with the opposite rather than same sex (Hadfield 1958). Herzog opined that some cases of homosexuality are congenital, meaning therapy will not change it, but that other cases are acquired, meaning therapy might change it. Some employed talk therapies (Moore 1945), others used physical or aversive conditioning methods (James 1962).

In 1969 psychiatrist David Reuben wrote what would become the bestselling sex advice book of all time: *Everything You Always Wanted to Know About Sex\* (\*But Were Afraid to Ask)*. Reuben’s book sold over a hundred million copies. It seemed ubiquitous, in bedrooms across America and many other countries in the early 1970s. Reuben wrote (p. 162), “If a homosexual who wants to renounce homosexuality finds a psychiatrist who knows how to cure homosexuality, he has every chance of becoming a happy, well-adjusted, heterosexual.”

Reuben's book infuriated the LGBTQ community. The LGBTQ community insisted that homosexuality is not an illness and therefore cannot and should not be "cured." In 1973 they and their allies persuaded the American Psychiatric Association's Board of Trustees to declare that homosexuality is not an illness (Drescher 2015). If it is not an illness, there is nothing to cure. Many psychiatrists objected to the Board's decision. They petitioned the Association to hold a referendum asking the entire membership to vote either in support of or against the Board's decision. In the referendum, 58 percent of the 10,000 voting members voted in support of the Board's decision.

In 1986, during the AIDS crisis, the United States Supreme Court in *Bowers v. Hardwick*, 478 U.S. 186, upheld laws banning "sodomy." The Court held that states have the right, if they choose, to ban "sodomy." In 2003, after the number of AIDS cases diminished, the LGBTQ community and their allies asked the Court to rule that the *Bowers v. Hardwick* decision was incorrect and should be overruled. The Court, in *Lawrence v. Texas*, 539 U.S. 558 (2003), declared *Bowers v. Hardwick* incorrect and overruled it. The Court held that a person has a constitutional right to have sex with a person of the same sex in a private home. Then the LGBTQ community and allies asked legislators to ban some other forms of persuasion. They asked to ban therapies that help people desire sex with the opposite rather than same sex. They argued that people who seek such therapies do so, not willingly, but because society, family, and friends force them to. They asked to ban such therapy even if a person requests the therapy for himself or herself. They asked professional health organizations to ban members from engaging in such therapy.

They gave such therapy a name: *conversion therapy*. Physicians had used the term *conversion therapy* to describe medical treatments having nothing to do with sexuality, but the

LGBTQ community asked legislators to define *conversion therapy* specifically as efforts to change (convert) a person's sexual orientation. *Conversion therapy* and *sexual orientation change efforts (SOCE)* are synonymous and used interchangeably in this article. Drafting such legislation posed problems. First, how should the law define *SOCE*? If a 14-year-old boy (call him Ed) tells his father that Ed wants to date and kiss a male classmate, and the father tells Ed that Ed should date girls, not boys, is that *SOCE*? If Ed's neighbor tells Ed that the Bible says a man should not have sex with a man, is that *SOCE*? If a sex education instructor teaches Ed that the penis, when erect, is designed to fit into the vagina, is that *SOCE*? It is or seems to be an effort to persuade Ed that sex between a male and female is correct and sex between two males, or two females, is incorrect. If a fifty-year-old man lives with and has sex with another fifty-year-old man, and Ed's father tells the men they are sinners, is that *SOCE*? If we ban *SOCE*, do we ban freedom of speech and freedom of religion, and thus violate the First Amendment to the United States Constitution?

Taking all this into consideration, the LGBTQ community and their allies wrote a law banning *SOCE* on people under 18. In 2012 they persuaded the state of California to pass the law, 2012 Cal. Stat. c. 835 (S.B.1172).

### Conversion therapy defined

The California legislation began, "The Legislature finds and declares . . . (a) Being lesbian, gay, or bisexual is not a disease, disorder, illness, deficiency, or shortcoming. The major professional associations of mental health practitioners and researchers in the United States have recognized this fact for nearly 40 years." It goes on to say that these professional associations have found that sexual orientation change efforts, including efforts to "repair," "cure," or "prevent" homosexuality (the legislation includes the word "homosexuality"), can be harmful.

The legislation led to a law which took effect in 2013: California Business and Professions Code sections 865, 865.1, and 865.2. It reads:

865. For the purposes of this article, the following terms shall have the following meanings:

(a) “Mental health provider” means a physician and surgeon specializing in the practice of psychiatry, a psychologist, a psychological assistant, intern, or trainee, a licensed marriage and family therapist, a registered marriage and family therapist, intern, or trainee, a licensed educational psychologist, a credentialed school psychologist, a licensed clinical social worker, an associate clinical social worker, a licensed professional clinical counselor, a registered clinical counselor, intern, or trainee, or any other person designated as a mental health professional under California law or regulation.

(b) (1) “Sexual orientation change efforts” means any practices by mental health providers that seek to change an individual’s sexual orientation. This includes efforts to change behaviors or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

(2) “Sexual orientation change efforts” does not include psychotherapies that: (A) provide acceptance, support, and understanding of clients or the facilitation of clients’ coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and (B) do not seek to change sexual orientation.

865.1. Under no circumstances shall a mental health provider engage in sexual orientation change efforts with a patient under 18 years of age.

865.2. Any sexual orientation change efforts attempted on a patient under 18 years of age by a mental health provider shall be considered unprofessional conduct and shall subject a mental health provider to discipline by the licensing entity for that mental health provider.

The California law pleased the LGBTQ community but raised a concern among them: What if a boy wants to become (convert to) a girl? Does this law ban health care providers from helping a boy become a girl? The LGBTQ community wants to allow and help a boy become a girl. The next state to pass such a law, New Jersey, addressed this point. The New Jersey law reads almost the same as the California law but says counseling for a person “seeking to transition from one gender to another” is not *sexual orientation change efforts* (and thus not *conversion therapy*).

Note that California bans “mental health providers” from engaging in sexual orientation change efforts (SOCE) with a person under age 18. The New Jersey law bans “a person who is licensed to provide professional counseling” from engaging in SOCE with a person under age 18. What if a person is not a mental health provider or professional counselor? Do these laws ban the person from providing conversion therapy to a person under 18? This is discussed below.

Between 2013 and June 7, 2021, 18 more states and the District of Columbia enacted laws that read similarly to the way the New Jersey law reads (See Table). In the other 30 states, some cities and towns enacted such laws. Some use the term *conversion therapy*, some use the term *sexual orientation change efforts*. Many have added professions to the list of professions banned from conversion therapy on a minor. Many of these lists now include all physicians, nurses, and other licensed health care providers. Utah’s law includes an exemption for a clergy



member or religious counselor who is acting substantially in a pastoral or religious capacity and not in the capacity of a mental health therapist, and to a parent or grandparent who is a mental health therapist and who is acting substantially in the capacity of a parent or grandparent and not in the capacity of a mental health therapist. The Massachusetts law includes the word “impose.” Massachusetts says: “Sexual orientation change efforts” include any practice by a health care provider that “attempts or purports to impose change of an individual's sexual orientation or gender identity.” Does “impose” mean “force?” Are sexual orientation change efforts on a person under 18 in Massachusetts illegal if forced but legal if voluntary? The answer is unclear. A Massachusetts court may have to clarify this point.

As of June 7, 2021, the 20 state laws listed in the table at the end of this article ban conversion therapy on minors (people under age 18), not on adults. The District of Columbia bans conversion therapy on minors and also on an adult who is under a conservatorship or guardianship. In the other 30 states, dozens of cities ban conversion therapy. Most of these cities ban it on minors, not on adults. The cities are not listed in the Table. Health care providers should read the current—as of the date the provider is reading it—law in the provider’s state. The laws are on the internet and readable for free.

Not only do state and city laws occasionally change on this topic, federal law may change, too. The Biden administration and Congressional Democrats are trying to pass the “Equality Act,” section 2(a)(7) of which would declare “conversion therapy” a form of discrimination, regardless of age.

I encourage health care providers to lobby their legislators about legislation pertinent to conversion therapy (sexual orientation change efforts).

## Who is banned?

As the above section states, the 20 state laws that ban sexual orientation change efforts on a minor ban *licensed health care providers* from such efforts. Most of these laws do not ban a father—a father who is *not* a licensed health care provider—from trying to persuade his 14-year-old son, who has a crush on a male classmate, to date girls rather than boys. If that father *is* a licensed health care provider, say, a mental health counselor, the father risks license revocation if his efforts are a “treatment” that seeks to “eliminate or reduce” his son’s “sexual or romantic attractions or feelings toward individuals of the same sex.” Utah in 2020, recognizing the possibility in the other 19 states that a mental health counselor could lose his license for trying to persuade his own son to date girls rather than boys, added language that protects the father from that possibility.

Some of these 20 state laws define licensed health care providers so broadly that they ban not only doctors, nurses, and mental health counselors from conversion therapy on a minor but also audiologists, barbers, dietitians, massage therapists, recreation therapists, speech-language pathologists, and veterinarians from it. Virginia even bans funeral service professionals from it. New Mexico bans not only health care providers but many additional professionals such as collection agents, engineers, surveyors, landscape architects, interior designers, home inspectors, private investigators, public accountants, real estate brokers, and utility operators from conversion therapy on a minor. Why ban so many? This is addressed below.

## What about *unlicensed* health care providers and people *outside* the health care profession?

Do laws banning sexual orientation change efforts on a minor ban unlicensed health care providers (people who perform services related to health care that do not require a license) from such efforts? Do they ban people outside the health care profession from such efforts? As of June

7, 2021, the answer in most of these 20 states is no but the answer can be tricky in some states. Suppose 14-year-old Ed, who has gay urges but wishes to be heterosexual, lives in Connecticut. Ed talks to his neighbor, 60-year-old George the plumber, about it. Does the Connecticut law banning conversion therapy on a minor ban George from helping Ed desire a girl? Connecticut General Statutes sections 19a-907a(a) & (b) say: “No health care provider shall engage in conversion therapy. Any conversion therapy practiced by a health care provider shall be considered unprofessional conduct and shall be grounds for disciplinary action . . .” George is not a health care provider, so that section of the law does not apply to him. But another section of the law, section 19a-907b(a), says: “It shall be unlawful for any person who practices or administers conversion therapy to practice or administer such therapy while in the conduct of trade or commerce.” This indicates that in Connecticut a person who is not a health care provider can practice conversion therapy but cannot charge money for it. Can George call himself a “therapist?” That depends on whether Connecticut has a law that says a person can call himself a “therapist” only if he has some type of license that entitles him to call himself a “therapist.” Answering this definitively is beyond the scope of this article. A related question is discussed: Are these laws constitutional? Homosexuality is no longer classified as an illness. If it is not considered an illness, an interesting question is whether a person needs any training or license to help people deal with it. The answer may vary from state to state.

### *A city ordinance that bans forced, not voluntary, conversion therapy*

At least one city ordinance distinguishes between forced and voluntary conversion therapy. In East Lansing, Michigan, ordinance 1467 section 22-63 (2019) defines conversion therapy as “any practice or treatment that seeks to change an individual’s sexual orientation or gender identity against that individual’s will.”

## Words to avoid if possible

Even where it is legal to help a person change sexual orientation, health care providers should try not to use the terms “conversion therapy” or “therapy” to describe it. “Therapy” implies that homosexuality is an illness. Homosexuality is no longer classified as an illness. If a boy who is attracted to boys wants to be attracted to girls, he isn’t “ill” but may want some help anyway. This article includes a hypothetical discussion between a pediatrician (“Dr. Smith”) and 15-year-old “Tim,” who has gay urges. Tim is not “broken” or “ill.” Dr. Smith is not trying to “fix” or “cure” Tim. Dr. Smith may be a therapist—most health care providers are therapists—but Dr. Smith should not use the words “therapy,” “treatment,” or “practice” to describe his discussion with Tim. Dr. Smith is helping Tim be what Tim wants to be and is physically designed to be. Dr. Smith is helping Tim be heterosexual, not “become” heterosexual. “Become” implies conversion. Dr. Smith is helping Tim be what Tim is physically designed to be, not “convert” to something else. Tim has male genitalia. Tim can and does aspire to eventually engage in the marital act with a woman (hopefully, he will first marry the woman). He need not “become” heterosexual. He need not “convert” to heterosexual. He was born male. He was born with male genitalia designed to be inserted into female genitalia. “Conversion” is, arguably, a misnomer. Helping a person be what the person wants to be and is physically designed to be should, arguably, not be termed “conversion.” But these laws often use the term “conversion therapy” to describe efforts to help a person change sexual orientation, so the term is sometimes unavoidable when discussing the law.

## Distinguishing legal bans from organizational bans

This article pertains mainly to *laws* banning conversion therapy. *Laws* banning conversion therapy are distinguishable from *organizations* banning or discouraging conversion

therapy. Organizational bans are often referred to as *ethical bans*. Governments enact laws. Governments license and discipline health care providers. Some private professional organizations ban or discourage their members from engaging in conversion therapy but quite often the only penalty the organization can impose is expulsion from the organization. Does that affect the member's license to practice in that state? In some states it does not. It varies from state to state. What if a practitioner is licensed but not a member of the professional organization? Do the organization's ethical rules apply to this practitioner? What if there is more than one professional organization and one organization's ethics code differs from another's? Health care providers should familiarize themselves with their own state's law and their own organization's position statements and code of ethics. Many health organizations have denounced conversion therapy but denouncing it is not the same as banning it, and denouncing it does not necessarily denounce it in all circumstances. Some organizations have issued position statements denouncing conversion therapy but have ethics codes that do not mention conversion therapy (Gamboni et al. 2018). Can an organization expel a member who hasn't violated the organization's code of ethics?

Some organizations denounce conversion therapy not only on minors but on adults too.

American Psychiatric Association (2018):

“The American Psychiatric Association does not believe that same-sex orientation should or needs to be changed, and efforts to do so represent a significant risk of harm by subjecting individuals to forms of treatment which have not been scientifically validated and by undermining self-esteem when sexual orientation fails to change. No credible evidence exists that any mental health intervention can reliably and safely change sexual

orientation; nor, from a mental health perspective does sexual orientation need to be changed.”

American Psychological Association (2021):

“[T]he APA opposes SOCE because such efforts put individuals at significant risk of harm and encourages individuals, families, health professionals, and organizations to avoid SOCE.”

American Medical Association (2019):

The AMA “opposes, the use of ‘reparative’ or ‘conversion’ therapy for sexual orientation or gender identity.”

National Association of Social Workers (2015):

“NASW condemns the use of SOCE or so-called reparative therapy by any person identifying as a social worker or any agency that identifies as providing social work services. Public dollars should not be spent on programs that support SOCE. NASW reaffirms its stance against therapies and treatments designed to change sexual orientation or gender identity and against referring clients to practitioners or programs that claim to do so.”

American College of Physicians (2015):

“The College opposes the use of ‘conversion,’ ‘reorientation,’ or ‘reparative’ therapy for the treatment of LGBT persons.”

American Academy of Pediatrics (2013):

“Referral for ‘conversion’ or ‘reparative therapy’ is never indicated; therapy is not effective and may be harmful to LGBTQ individuals by increasing internalized stigma, distress, and depression.”

American Academy of Family Physicians (2021):

“The American Academy of Family Physicians (AAFP) opposes the use of ‘reparative’ or ‘conversion’ therapy of lesbian, gay, bisexual or transsexual individuals. The AAFP recommends that parents, guardians, young people, and their families seek support and services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority persons of all ages.”

But interestingly and surprisingly, not all of the above-named organizations mention conversion therapy (or sexual orientation change efforts) in their code of ethics. This raises a question: Would these organizations expel a member for engaging in conversion therapy if the code of ethics does not mention conversion therapy? This article will not speculate about what they would do. Members should communicate with their organizations. This article is mainly about legal bans, not organizational bans.

Suppose a 44-year-old man named Steve is married to a woman and they have three children. Steve finds himself increasingly attracted to his friend Fred. Steve goes to a health care provider for help, telling the provider, “I love my wife. I don’t want to divorce her. I don’t want to cheat on her. Can you help me deal with my sexual urges for Fred?” What do the above-named organizations want the provider to do? Tell Steve to have sex with Fred? Tell Steve it is OK for Steve to have sex with Fred? Tell Steve that Steve is gay and “living a lie” if he stays married to his wife? If the provider says or does anything that causes Steve “to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex,” that is “conversion therapy” according to the definition stated earlier in this article. Can these organizations expel a provider for helping Steve stay happily married to his wife and eliminate or

reduce his attractions or feelings toward Fred? This question will not be answered in this article as it would be speculation.

Talk therapy is speech. If a private professional organization expels a member for engaging in conversion therapy, does that violate the member's First Amendment right to freedom of speech? No. The First Amendment provides that the *government* cannot infringe on free speech. There are exceptions, of course, but that is basically what the First Amendment provides. A private organization is not the government. If a private organization has a rule—perhaps in its code of ethics—banning its members from engaging in conversion therapy, the organization can probably (it may depend on circumstances) expel from the organization, or otherwise discipline, members who practice conversion therapy. Whether expulsion from a private organization impacts the provider's license to practice depends on the state's laws and licensing rules. The constitutionality of *laws* banning conversion therapy will be discussed below.

### Statements that may land you in trouble

If a 15-year-old Connecticut boy has homosexual urges but wants to have only heterosexual urges, and asks a Connecticut health care provider to help the boy have only heterosexual urges, the law restricts what the provider can tell the boy. The following statements *may* be illegal for a Connecticut health care provider to tell the boy:

“The male sex organ is designed to fit into the female sex organ. That is how people reproduce. Keep that in mind. It may help you develop an interest in girls.”



“The first sexual urges many kids your age experience are homosexual. Most of these kids will eventually be heterosexual. You’ll see. Wait another year or two.”

“It’s Adam and Eve, not Adam and Steve.”

“Do you want to conceive a child? If you do, marrying a man makes it very difficult. You’d have to find a woman surrogate. It is impossible to conceive a child without a woman.”

“Gay and bisexual men are more likely to develop HIV than heterosexual men are.”

Each of those statements *may* be construed as a practice or treatment that seeks to change the boy’s sexual orientation from homosexual to heterosexual. “May” is not the same as “will.” It is not certain that each of those statements “will” be construed as conversion therapy. Maybe someone, somewhere will construe it as conversion therapy but that does not necessarily mean that a state licensing board will. It may depend on the context of the discussion between the provider and the boy. The provider may argue that the statement about HIV is true and seeks “to prevent or address unlawful conduct or unsafe sexual practices” (language in the conversion therapy definition) but the LGBTQ community and Connecticut regulators may argue that the statement is not “neutral” and seeks to change the boy’s sexual orientation. They may argue that the statement violates the law. It is difficult to predict whose argument will prevail.

Suppose a school nurse teaches sex education in Connecticut. A boy in her class is attracted to boys. If she teaches that an erect penis is designed to be inserted into a vagina, she

*may* violate the law. Connecticut law bans nurses and other licensed health care providers from engaging in conversion therapy on a minor. Her teaching *may* be construed as an effort to change the boy's sexual orientation from homosexual to heterosexual. It may be construed as an effort to teach him that penile-vaginal sex is natural and correct and that homosexual sex is not or less so. To comply with the law, she may have to give equal time to discussing homosexual sex. She may have to teach that the penis can be inserted into a mouth, anus, and hand as well as a vagina. Banning conversion therapy arguably violates her freedom of speech and religion. Courts will have to decide.

### Constitutionality of laws banning conversion therapy

Many people believe that laws banning conversion therapy are unconstitutional. Many believe that these laws violate freedom of speech and/or freedom of religion. So far, courts are divided on this. In 2020 a 3-judge panel of the U.S. Court of Appeals for the Eleventh Circuit (Alabama, Florida, and Georgia), in a 2-1 decision, held that a Florida city's (Boca Raton's) law banning conversion therapy is unconstitutional. The case is *Otto v. City of Boca Raton, Florida*, 981 F.3d 854. Two other circuits have ruled that a law banning conversion therapy is constitutional: *King v. Governor of the State of New Jersey*, 767 F.3d 216 (3d Cir. 2014), and *Pickup v. Brown*, 740 F.3d 1208 (9th Cir. 2014). The Supreme Court in *National Institute of Family and Life Advocates v. Becerra*, 138 S. Ct. 2361, 2371 (2018), questioned whether the *King* and *Pickup* cases were correctly decided but did not decide the question. In *Otto*, two years after *NIFLA v. Becerra*, the dissenting judge opined that the Boca Raton law is constitutional. As of this writing, six of the nine justices on the Supreme Court are Republican appointees but two of them (John Roberts and Neil Gorsuch) sided with the LGBT plaintiffs in *Bostock v. Clayton County, Georgia*, 140 S. Ct. 1731 (2020), so it is difficult to predict how the Supreme Court

would rule in a conversion therapy case. Most courts begin with a presumption that a law is constitutional. A party arguing that a law is unconstitutional has the burden of proving it to the court.

### What does the patient want? Does the law care what the patient wants?

Many of the people who write these laws seem to have two goals for a boy who has gay urges. First, they want him to date boys. They want him to be “authentic.” In their view, a boy with gay urges is “authentic” only if he dates boys. They tell him, “Be who you are.” They tell him that gay urges are not “a choice.” They believe that if the government allows health care providers to engage in conversion therapy, the government is declaring that sexual orientation can change and is a choice. Therefore, they want the government to ban conversion therapy. Second, these people want health care providers to be completely neutral about whether the boy dates a girl or boy. They regard homosexuality and heterosexuality as equal, so they want licensed health care providers to treat homosexuality and heterosexuality as equal.

The problem is, even if the provider is neutral about whether the boy dates a girl or boy, quite often *the boy* is *not* neutral about it. If a boy has gay urges and wants to talk to a health care provider about it, quite often the boy does not want to be gay. Quite often (not always) the boy wants, or wishes, to be heterosexual, like most people are, probably including his parents. What then? If the boy wants to be heterosexual, and the health care provider wants to help the boy be heterosexual, the people who write these laws want to ban the health care provider from helping the boy be heterosexual. Does the law ban the health care provider from helping the boy be heterosexual? Let’s explore this.

Suppose a pediatrician in Connecticut, Dr. John Smith (fictional name), has a male patient, Tim Jones (fictional name), age 15. Connecticut law bans Dr. Smith from seeking to

change Tim's sexual orientation. It bans Dr. Smith from seeking to eliminate or reduce Tim's sexual or romantic attraction, or feelings, toward males. Suppose Dr. Smith has a biological view about the sex organs. Looking at the male and female sex organs and how humans reproduce, he believes that the penis, when erect, is designed to be inserted into the vagina, and since engaging in such intercourse can result in pregnancy and the obligation to raise a child for 20 or more years, he believes that the male and female should marry before engaging in penile-vaginal intercourse. Dr. Smith believes that a man having sex with a man is unnatural and incorrect. Dr. Smith believes that if a man is sexually excited looking at some men and some women, the man may be able to find one woman toward whom the man can direct romance for life if the man wants to. Whether Dr. Smith's view has anything to do with religion is irrelevant. An atheist may have the same biological view Dr. Smith has.

Tim's mother calls and tells Dr. Smith, "I am worried that Tim might be gay. Can I come see you?" Does the law banning conversion therapy allow Dr. Smith to see her? Yes. Can she bring Tim? Yes. But Dr. Smith should take one step at a time. He can schedule an appointment at which Tim and Tim's mother will consult Dr. Smith about Tim's sexuality. The law allows such a consultation. Note that Ms. Jones did not say, "Tim is gay but I want him to be straight. Can you make him straight?" Had she said that, she is basically asking Dr. Smith to violate the law, so he should be very cautious and reluctant to schedule the appointment if she says that. Perhaps he should tell her that Connecticut has a law banning medical doctors from trying to change a child's sexual orientation.

Exactly what Dr. Smith can and cannot say during the consultation depends on how the consultation goes, which is difficult to predict. Let us try to imagine a consultation—a

conversation between Dr. Smith and Tim—that allows Dr. Smith to help Tim achieve Tim’s goals but does not violate the law. As you will see, Tim, not Dr. Smith, will set Tim’s goals.

Keep in mind that many of the people who write these laws want Dr. Smith to tell Tim essentially this: “If you have gay urges, you’re gay. If you’re gay, accept it. Date boys, not girls. Be who you are. You didn’t choose to be gay, but gay chose you. The law does not allow me to even try to convert you to straight.” We are assuming that Dr. Smith does not want to say that. Dr. Smith’s beliefs, based on his understanding of biology, prevent him from telling Tim to date boys. It prevents Dr. Smith from telling Tim that Tim’s only choice is to be gay. Telling Tim his only choice is to be gay essentially tells Tim his only choice is to date boys.

### Tim, 15, visits his pediatrician, Dr. Smith

The following scenario is an attempt to create a hypothetical conversation between Dr. Smith and Tim that promotes Tim’s own life goals and good health and does not violate the law. Someone, somewhere—perhaps the head of an LGBTQ organization—might *say* it violates the law (law banning conversion therapy). Whether they would be correct will be debated. With few court decisions construing these laws it is difficult to predict the outcome of the debate. A doctor who reads the law banning conversion therapy probably knows as much as about it as a lawyer does. Warning: The conversation in this scenario contains some graphic or biological descriptions of sexual acts. To make sure Dr. Smith and Tim understand each other, it may be necessary for them to speak explicitly rather than obliquely. The consultation, or conversation, in Dr. Smith’s office goes like this.

Dr. Smith: Hello, Tim. Hello, Ms. Jones. What would you like to talk about?

Tim: I think I’m gay.

Dr. Smith: First let me ask you a question, Tim. Do you *want* to be here today? Was it *your* idea to come see me, or did your mother drag you here?

Note: Unless there is good reason not to, Dr. Smith should somehow make sure that Tim is a willing patient in Dr. Smith's office today. If Dr. Smith suspects that Tim's mother dragged Tim to Dr. Smith today, the conversation will be very different than if Tim is willing and eager to talk to Dr. Smith today. To ascertain Tim's willingness, Dr. Smith may wish to speak to Tim alone while Tim's mother waits outside, at least for the purpose of obtaining Tim's willing consent. Health care providers should read the law in their own state and city to learn their obligation, if any, to obtain Tim's consent to this consultation.

Tim: I want to be here.

Dr. Smith: OK. What do you want to know or hear from me?

Tim: I want to know if I'm gay. I want you to tell me if I'm gay.

Dr. Smith: Do you want to be gay?

Note: Tim's answer to this question—"Do you want to be gay?"—is important and could shape the consultation. If Tim answers "Yes, I want to be gay," the law banning conversion therapy essentially requires Dr. Smith to accept Tim's self-determination and not try to talk Tim out of it. Many (not all, but many) 15-year-olds in Tim's situation will answer "No" or "I don't know" or "I'd rather not be gay, if I have a choice about it" or something like that—even if their parents are not present. The (Connecticut) law allows counseling to "facilitate the person's coping, social support or identity exploration and development." If Tim answers the question ("Do you want to be gay?") "No" or "I don't know" or "I'd rather not be gay, if I have a choice about it," the rest of the consultation (conversation) may go like this:

Dr. Smith: What does "gay" mean?

Tim: It means I like boys.

Dr. Smith: All boys?

Tim: No, some boys.

Dr. Smith: What do you mean you “like” them?

Tim: When I was in the gym shower the other day, I was looking at my friend Bob in the shower. I started to get an erection.

Dr. Smith: Is that the only reason you think you might be gay?

Tim: The other night I masturbated. I thought about Bob when I masturbated.

Dr. Smith: Are there any other boys you get an erection looking at or thinking about?

Tim: I once thought about my friend Scott.

Dr. Smith: Just those two boys?

Tim: Yes.

Dr. Smith: If you could choose, would you get an erection looking at boys or at girls?

Note: Many people opposed to conversion therapy will object to Dr. Smith’s asking Tim “If you could choose, would you get an erection looking at boys or at girls?” They insist that Tim has no choice about it. Former presidential candidate Pete Buttigieg, now U.S. Secretary of Transportation, famously said, “If me being gay was a choice,” he said, “it was a choice that was made far, far above my pay grade. . . . Your quarrel, sir, is with my Creator” (Lederman 2019). Also, as stated earlier, some of them may argue that Tim is too young to consent to having sex and therefore too young to choose his sexual orientation. Some may argue that since homosexuality is no longer classified as an illness, homosexual orientation is not an appropriate topic for a pediatrician to discuss with a patient.

Tim: If I could choose, girls. But I read on the internet that I can’t choose. I read that if you’re gay, you’re born that way and there’s nothing you can do to change it. I’ve heard kids say that. I’ve heard adults say that.

- Dr. Smith: You heard you have no choice? I have news for you. You will eventually—maybe not today or tomorrow, but soon—have to make a choice. If you want a date, you'll have to choose: date a boy or girl.
- Tim: Do I have a choice about it?
- Dr. Smith: You certainly do. Some people may *want* you to date a boy, but they don't decide whether you date a boy. *You* decide. It's *your choice*.
- Tim: Why do I think about boys when I masturbate?
- Dr. Smith: We think about a lot of things. The first sexual urges many boys your age experience are for other boys. Many of these boys will eventually date girls and, when old enough, marry women. Not all will, but many will. Are there any girls you think are pretty or attractive?
- Tim: Yes. Not many, but a few.
- Dr. Smith: It sounds like you have some degree of attraction to both sexes. So you have a choice if you can find one woman toward whom you can direct your romance. Do you think you want to get married?
- Tim: Yes. I think so.
- Dr. Smith: To a man or woman?
- Tim: I think to a woman. But I don't know if I'm going to be attracted enough to a woman to marry her.
- Dr. Smith: Do you want to have children?
- Tim: I might.
- Dr. Smith: What is marriage?
- Tim: It's a decision to spend the rest of your life with a particular person.
- Dr. Smith: It's also a decision about what you will do with your erect penis.



Tim: Huh?

Dr. Smith: Every man who wants romance must decide what he will do with his erect penis. What are his options? Let's look at an anatomical diagram of three people: two males and a female. [Dr. Smith shows Tim the diagram.] Let's say this male is you. You have your choice as to where you will insert your penis: into or onto the female, or into or onto this other male. When you marry, you choose whether you will insert your penis into or onto a male or into or onto a female, and you vow you will insert it only into or onto this person you are marrying, no other person, for the rest of your life. Of course, some people break that vow. Some people get divorced. But the fact remains that they make that solemn vow when they marry. Have you chosen whether you will eventually, when you are old enough, insert your penis into or onto a male or into or onto a female?

Tim (looking at the diagram): Looking at where the penis and vagina are on the male and female bodies, it appears that the penis, when erect, is designed to be inserted into the vagina.

Dr. Smith: Yes. What is the purpose of that?

Tim: I guess the man gets pleasure if he inserts his penis into her vagina. Maybe she gets pleasure too.

Dr. Smith: Is that the only purpose?

Tim: I think I read somewhere that that is how babies are made.

Dr. Smith: Yes. If the man ejaculates sperm into the woman's vagina, it is possible that it will fertilize her egg and she will get pregnant and have a baby. Creating a baby is very serious business. You—the father—and the mother must care for the baby for about 20 years. That is why many people believe that you should not insert your penis into a vagina unless you are married to the woman and have made a solemn promise to stay with her until one of you dies. Tim, your penis, when erect, is designed to fit into a vagina, but you should wait until you are old enough and preferably until you are married. If someone says you were “born gay,” remind them that you were “born male.” Remind them that, born male, you are designed to have sex with a female. If they ask who says so, answer “God,” “Nature,” or “Look at the male and female sexual anatomy,

and you'll see that the penis is designed to fit into the vagina. I want to live by how I was designed." Anticipate that some of them will respond that the penis can fit into numerous places, not just a vagina. You can respond that regardless of how many places a penis can fit into, it is *designed* to fit into a vagina. When you speak about creating babies, anticipate that some of these people will point out that it is medically possible, sometimes, to take a man's sperm and insert it into a woman's egg, resulting in pregnancy, without the man inserting his penis into her vagina. So, they will argue, you can marry a man and still create a baby. You can respond by telling them it is very difficult and expensive to create a baby the way they suggest. You'd need to find a woman willing to have your sperm injected into her egg and to carry the baby for 9 months until birth. After birth, the child will grow up having, probably, no contact with a mother. No matter what these people say, it still takes a male and female to create a child. Since it takes a male and female to create a child, and takes about 20 years to raise the child, it is fair to say that most people prefer that the father and mother stay together and raise the child together. Marriage increases the likelihood they will.

Note: You may be wondering if you have the right to mention God, Jesus, the Bible, and/or religion when talking about this with Tim. I think you do but some lawyers may advise you not to. It may depend, to some extent, on whether you—the health care provider—work for the government or are in private practice. Generally speaking, government employees are on a shorter leash when they are at work and want to discuss religion than when private employees are at work and want to discuss religion. This falls under separation of church and state, a concept which will not be discussed here in detail. A pediatrician in private practice probably has a greater right to discuss religion with Tim than a pediatrician in a municipal hospital does. If Dr. Smith mentions religion to Tim, it may increase the likelihood someone, somewhere, may accuse Dr. Smith of conversion therapy. If Dr. Smith's primary goal is to avoid legal trouble, he shouldn't mention God, Jesus, the Bible, or religion. If he is inclined to mention God, he should consider substituting the word "Nature" for "God." Health care providers in Utah should read the

Utah law. The Utah law addresses religious counseling by licensed health care providers. And what if Tim brings up the topic of religion? It is important for patients/clients to be able to integrate their religious self, for example their religious identity and worldview, with their sexual self, and they should have the right to talk about these with their therapist. In a work environment that may be hostile to talking about religion, however, the therapist may have to be cautious. In this discussion between Dr. Smith and Tim, the topic of religion does not come up. It is possible that neither of them is religious or one is a different religion than the other.

Dr. Smith (continuing): Let's talk about some of these places on the body where these people say a male can insert his penis if he has sex with a male. Look at the diagram. What places are they talking about?

Tim: He can insert it into the other male's mouth, rear end, hand, and maybe some other places.

Dr. Smith: You also have those options with a woman: her mouth, rear end, hand, or other parts of her body.

Tim: Yes.

Dr. Smith: There is one option you have with the female but not the male: inserting your penis into a vagina. The male does not have a vagina. So if you want to marry, you must choose. Do you want to insert your penis into a vagina? If you do, marry a woman. If you don't, you have your choice between a man and woman. Among those four places—the mouth, the hand, the anus, and the vagina—where do you think the penis fits best, or does it fit the same in all those places?

Tim: I think it fits best in the vagina. That seems to be where it's *designed* to fit. It can fit into some other places, too, but it is designed to fit in the vagina. The mouth isn't really big enough.

Dr. Smith: What about the anus?

Tim: I don't know. Isn't there, uh, poop in the anus?

Dr. Smith: Yes. The anus is part of the digestive system. It's where you eliminate waste. That is one reason some gay men use condoms. They don't want to touch the other man's feces. Do you know what a condom is?

Tim: Yes. It's like a balloon you put over your erect penis so the penis doesn't actually touch the other person's body.

Dr. Smith: Yes. The vagina is part of the reproductive system. It's where women get pregnant. That is one reason some straight men use condoms. They want to have sexual intercourse but don't want the woman to get pregnant. Condoms also help prevent sexually transmitted diseases. Let me ask you this: What is it about Bob that causes you to get an erection?

Tim: I look at his body. I want to touch his body. He has good muscles.

Dr. Smith: Do you want to touch his penis? Do you want him to touch your penis?

Note: Tim's answers to these two questions are important. If he answers "Yes, I want to touch his penis" or, more graphically, "I want to suck his penis or insert my penis into his anus," the law allows Dr. Smith to discuss safe sex practices with Tim but does not allow Dr. Smith to try to change Tim's sexual orientation. The law says Dr. Smith can seek "to prevent or address unlawful conduct or unsafe sexual practices, provided such counseling does not seek to change the person's sexual orientation or gender identity."

Tim: I don't think so.

Dr. Smith: Are there any girls you find attractive? Girls have muscles, too.

Tim: Yes, a few. Not many.

Dr. Smith: All it takes is one.

Tim: You didn't answer my question. Am I gay?

Dr. Smith: There is no answer to that. And if there is, you, not I, will answer it. You, not I, will decide if you date a girl or boy. It's your choice, not mine. You, not I, will decide at some point in your life if you want to insert your penis

into a woman’s vagina, or, instead, into or onto a man’s body. Many urges go through our minds. Sexual urges are like any other urges. You decide which urges you give in to and which ones you resist.

Tim: Is it wrong to be gay?

Dr. Smith: It is not for me to say. I *will* say that I distinguish gay *urges*—gay thoughts that enter your head—from *actual gay sex*. I’m not saying it is wrong if thoughts of gay sex enter your head. The question is, will you insert your penis into or onto a male? That is for you to decide. You can’t always decide what thoughts enter your head but you decide what you will *do*. Decide for yourself.

Dr. Smith: Anything else you want to discuss?

Tim: No.

End of consultation.

Now Tim has the facts. Tim will decide what he will do. We don’t know what the outcome will be.

### Focusing on facts, not labels

Is Dr. Smith trying to “convert” Tim? Dr. Smith is helping Tim do what Tim wants to do and is physically designed to do: date girls and eventually happily marry a woman. Dr. Smith does not use, or uses only if Tim uses, the words “convert,” “change,” “gay,” “straight,” “bisexual,” “homosexual,” and “heterosexual.” If Dr. Smith’s treatment of Tim is an effort to “convert” Tim, then almost all medical and psychological treatment is an effort to “convert” someone. Almost all medical and psychological treatment seeks to change (“convert”) a way of thinking or a physical condition. Dr. Smith tries to avoid those words/labels. Dr. Smith focuses on facts, not labels. Dr. Smith is trying to help Tim happily date girls and eventually marry a woman. That is what Tim wants. Dr. Smith focuses on Tim’s future, not Tim’s past. The fact that Tim was attracted to Bob and Scott does not mean Tim will always be attracted to males. Tim is

only 15. Why 20 states have banned therapy to convert a child's sexual orientation but not a child's other types of orientation, such as religious, political, and other mental and physical orientations, is a good question.

These laws allow gay-affirming statements. They allow Dr. Smith to tell Tim: "It's okay to be attracted to Bob. It's okay to be gay. It's okay for you to ask Bob for a date. Maybe Bob feels the same way about you." This is why some people refer to the movement to ban conversion therapy as the "stay gay" movement. It is, or seems to be, designed to persuade people with gay urges to stay gay and date the same sex, not the opposite sex. Any statement that might cause or encourage Tim to date girls runs the risk that someone, somewhere, will call it "conversion therapy." There is no guarantee that Dr. Smith will avoid having to answer for himself if he has the aforementioned conversation with Tim. Some people may *opine* that Dr. Smith violated the law. People who want Tim to date boys, not girls, may opine that Dr. Smith violated the law. It is difficult to predict what the outcome will be.

Everything said thus far in this article assumes that Tim is a willing patient. If Tim is not a willing patient—if Tim wants to be gay and is unwilling to date girls—trying to cause Tim to date girls is likely to be classified as an effort to "convert" Tim, and thus likely to violate the law.

Health care providers should be cautious, and perhaps suspicious, if someone calls you and says, "My kid is gay but wants to be straight. Can you make him straight?" It is conceivable that someone is trying to set you up, or entrap you, and get you into trouble. Suppose someone calls you and says, "My kid is gay but wants to be straight. Can you help?" You may respond, "Help what?" Listen to the answer. Depending on the answer, and mindful of what the law says, decide whether and how to proceed.

## Conversion therapy or biology lesson?

Is it legal for a health care provider to tell Tim, a boy who has gay urges but wants to be straight, that the penis, when erect, is designed to fit into a vagina? Historically and traditionally, that has been a simple, obvious, uncontroversial biology lesson. Today, many in the LGBTQ community and some of their allies in the health professions consider it conversion therapy. They consider it an effort to persuade Tim that heterosexual sex is natural and correct, and gay sex is not. They want to ban as many people as they can from giving and hearing the traditional lesson. They want Tim to hear that the vagina is just one of many places the penis can fit. They have difficulty banning a father from giving his son, or clergyman giving a parishioner, the traditional lesson. The First Amendment to the U.S. Constitution gets in the way. But they can, or think they can, ban licensed health care providers from giving children the traditional lesson. They hope that laws banning conversion therapy will essentially ban the traditional lesson about what the sex organs are designed to do. If a boy has an urge to kiss boys, the LGBTQ community doesn't want people to talk him out of it. They probably cannot prevent the boy's parents and clergy from talking him out of it but they can, or think they can, prevent licensed health care providers from talking him out of it. They can ask the state government to revoke the health care provider's license. Whether the state government will do so remains to be seen.

## Conversion therapist or biology tutor?

If someone labels Dr. Smith a "conversion therapist," Dr. Smith can reply, "I am not a conversion therapist. I am a biology tutor. I helped Tim learn about the digestive system, the reproductive system, and the sex organs. I helped Tim learn that he feels some attraction toward both girls and boys, so he has choices."

## If a child has gay urges but wants to be straight, why do most of these laws ban conversion therapy on the child?

Many LGBTQ people regard conversion therapy as a cruel effort to force gay people, particularly minors (children), to be straight. They depict conversion therapy that way in movies, TV, and other media. They sometimes depict it as physically painful or even torture. But at least 19 of the 20 states (Massachusetts being the possible exception) that ban conversion therapy on minors ban it even if the minor wants and requests it and the therapy consists only of talk. Why do they want to ban conversion therapy on a boy who has gay urges but wants to be straight and requests therapy to help him be straight?

They have stated five reasons. First, if a boy has gay urges, they (the LGBTQ community and their allies), or many of them, believe he will continue to have gay urges and that his sexual orientation will not change. They have an organization called Truth Wins Out (TWO). TWO says “ex-gays”—people who had gay sexual relationships but now have heterosexual relationships and who encourage other same-sex attracted people to change—are “hypocritical frauds that have not actually changed their sexual orientation” (Truth Wins Out, n.d.). This conflicts with the *Harvard Medical School Family Health Guide* (1999), which says (p. 1033), “During adolescence you may find yourself attracted to a person of the same sex even if you are heterosexual. This does not necessarily mean that you will be gay.” Many in the LGBTQ community regard homosexuality and heterosexuality as equally worthy, so they see no need for the boy to be straight. If he tries to be straight, they believe he may become despondent and commit suicide. They believe, or say they believe, he cannot change his sexual orientation any more than he can change his eye color or skin color. They want to ban efforts to change something they say cannot and need not be changed. They point out that a boy may *want* many



things in life but will be unable to achieve them. He may want to be 7 feet tall. He may want to be King of England. Sadly, and inaccurately, they essentially predict that he has no greater chance, when he becomes an adult, of falling in love with a woman than he has of being 7 feet tall or King of England. They argue he cannot change his sexual orientation, but, in a bizarre twist, they argue he *can* change his sex—become a girl. They wrote the law in Connecticut and nearly all states that ban conversion therapy on minors so that it allows health care providers to help a boy “convert” from male to female but not from gay to straight. As for whether sexual orientation can change, a February 2021 American Psychological Association resolution (APA, p. 3) says “sexual orientation can evolve and change for some.” It says (p. 4) “sexual fluidity is normal.” The resolution denounces “intervention” to change sexual orientation—that is, denounces conversion therapy—but acknowledges that sexual orientation can and often does change, at least for some.

Second, if a boy has gay urges but says he wants to be straight, they believe that his parents (Alexander, 2017, p. 307) and/or society are pressuring him to be straight. They want to immunize him from that pressure. To do that, they ban health care providers from helping him be straight even if he says he wants to be straight. They essentially require health care providers to assume that his parents and/or society are forcing him to say it and do it. His *true* desire, in the eyes of the LGBTQ community and their allies, is to be gay.

Third, they, or some of them, point out that a 14-year-old boy is not old enough to consent to having sex. Therefore, they argue he is too young to know what type of sex he wants to have. They argue that health care providers should disregard what he says he wants sexually. Or they argue he is too young to consent to discussing sex with a health care provider (Reyna, 2019). On November 22, 2020, two days after the U.S. Court of Appeals for the Eleventh Circuit

ruled a conversion therapy ban unconstitutional, the American Psychological Association issued a statement (APA 2020) voicing its “grave concern” about the ruling and quoting APA president Sandra L. Shullman as saying minors “cannot legally consent to such procedures.” These arguments are questionable. If people who are too young to consent to having sex are too young to know whether they want to be gay or straight, then people under the age of legal consent are too young to declare themselves gay. If their high school has an LGBTQ club, they are too young to join. If minors are too young to know if they want to be gay or straight, there is no such thing as a gay minor and there shouldn’t be an LGBTQ club in high school. Consider this analogy: If a minor female wants an abortion, she can consent to an abortion. Logic dictates that if a minor wants conversion therapy, the minor can consent to conversion therapy, especially if the minors’ parents also consent to it. Many of the people who argue that a minor is too young to consent to conversion therapy argue, incongruously and hypocritically, that a minor is old enough to consent to an abortion. Rather than disregard a boy’s stated desire to be straight, health care providers should, according to this logic, disregard a boy’s declaration that he is gay. Are these people arguing that a boy is too young to consent to talking to a school psychologist or school nurse? The school nurse was discussed above.

Fourth, they point out that homosexuality is no longer classified as an illness or disorder (Alexander, 2017, p. 294). Therefore, they, or some of them, argue that health care providers should not discuss it with patients. They argue that efforts to alter homosexual attraction are not an appropriate topic in a doctor’s or psychologist’s office.

Fifth, they want to increase the number and percentage of people who identify as LGBTQ. They know they are in the minority—they refer to themselves as a sexual minority or sexual minorities—and they accept being in the minority, but they don’t want to be a tiny

minority (GLAAD 2019; Smith 2019, p. 1439; Lambda Legal Impact 2015, p. 5; Brown 2012; Sharp 2015). The Gallup organization (Jones 2021) estimates that 5.6 percent of the U.S. population is LGBT.<sup>1</sup> Many LGBTQ organizations estimate it at 10 percent. In 2019, GLAAD (formerly known as Gay & Lesbian Alliance Against Defamation) called on the TV industry to “make sure that 20 percent of series regular characters on primetime scripted broadcast series are LGBTQ by 2025.” But of the 5.6 percent of the U.S. population who identify as LGBT, more than half identify as B (bisexual), not G (gay) or L (lesbian), according to Gallup. Only 2.1 percent of the U.S. population identifies as gay or lesbian. To increase the number and percentage of people who identify as LGBTQ, they want a boy, if he has gay urges, to identify as G (or if not G, then B or Q), not straight. If a boy has an urge to kiss a boy, they want him to kiss a boy. They don’t want him to resist the urge to kiss a boy. They don’t want people to talk him out of kissing a boy. They want to ban health care providers from talking him out of it. They want to ban as many people as they can from talking him out of it, but they can only ban as many people as the laws and professional organizations allow them to ban. The easiest people to ban are licensed professionals. For violating the law, the state can revoke their license. If a person has no license, it may be more difficult to punish the person (there is no license to revoke).

## Conclusion

Laws banning conversion therapy constrain, to some extent, what health care providers can say to patients about sexual orientation. This article discusses these laws and gives providers an opportunity to think through how they might handle some typical situations. Health care

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<sup>1</sup> This particular Gallup report uses the initialism LGBT rather than LGBTQ but there is no indication that Gallup is distinguishing between LGBT and LGBTQ. Some people add Q, some do not.

providers in states and cities that ban conversion therapy should read those laws carefully. If you believe that the law should be changed, consider lobbying your legislators. If you are in a state or city that does not ban conversion therapy, anticipate that someone sometime will propose such legislation. Depending on how the legislation reads, consider lobbying your legislators. Provide input on how these laws are worded. If you can suggest better wording, consider suggesting it. Consider proposing that legislation banning conversion therapy only if it is against the person's will. Anticipate that some people will disagree with you. Anticipate federal legislation pertaining to conversion therapy. Consider lobbying members of Congress.

## Table

As of July 14, 2021, the following states have laws banning sexual orientation change efforts, or "conversion therapy," on people under the age of 18. The citations of these laws are listed in this table. To read the law itself, you can use the citation to find the law on the internet. I encourage readers to read their own state's law. Some of these and other states have cities and towns that have laws banning conversion therapy on people under 18. The city/town laws are not listed in this table. Some state governors have issued executive orders pertaining to conversion therapy. The executive orders are not listed in this table. § is a symbol that means "section": section of the law. Not all laws use the symbol or the word ("section"). §§ means "sections."

California Business and Professions Code §§ 865, 865.1, 865.2.

Colorado House Bill 19-1129

Connecticut General Statutes §§ 19a-907 to 907c

Delaware Code title 24, § 1702

District of Columbia Code § 7-1231.02(25A)

Hawaii Revised Statutes § 453J-1

Illinois Compiled Statutes 405 ILCS 48/5

Maine Revised Statutes Annotated 32 MRSA § 59-C

Maryland Health Occupations Code Annotated § 1-212.1

Massachusetts General Laws chapter 112, § 275

Nevada Revised Statutes 629.600

New Hampshire Statutes chapter 332-L

New Jersey Statutes 45:1-55

New Mexico Statutes 61-1-3.3

New York Education Law §§ 6509-E and 6531-A

Oregon Revised Statutes ORS 675.850

Rhode Island General Laws 23-94-1 to 23-94-5

Utah Code 58-60-110 or Utah Rule R156-60-102

Vermont Statutes Annotated 18 V.S.A. §§ 8351 to 8353

Virginia Code § 54.1-2409.5

Revised Code of Washington (Washington State) RCW 18.130.020(4) & 18.130.180(27)

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