

1 H.755

2 Introduced by Representatives Campion of Bennington, Burditt of West

3 Rutland, Buxton of Tunbridge, Christie of Hartford, Conquest

4 of Newbury, Cupoli of Rutland City, Donovan of Burlington,

5 Goodwin of Weston, Grad of Moretown, Juskiewicz of

6 Cambridge, Komline of Dorset, Lippert of Hinesburg, Mitchell

7 of Fairfax, Mook of Bennington, Peltz of Woodbury, Pugh of

8 South Burlington, Rachelson of Burlington, Russell of Rutland

9 City, Stuart of Brattleboro, Wizowaty of Burlington, and

10 Wright of Burlington

11 Referred to Committee on

12 Date:

13 Subject: Health care; mental health; sexual orientation; conversion therapy

14 Statement of purpose of bill as introduced: This bill proposes to prohibit

15 mental health care providers from practicing sexual orientation conversion

16 therapy on patients younger than 18 years of age.

17 An act relating to the prohibition of sexual orientation conversion therapy
18 on minors

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. FINDINGS

3 In recognition that being lesbian, gay, or bisexual is not a disease, disorder,
4 illness, deficiency, or shortcoming, the General Assembly finds:

5 (1) After conducting an evaluation of peer-reviewed journal literature on
6 sexual orientation change efforts, the American Psychological Association's
7 Task Force on Appropriate Therapeutic Responses to Sexual Orientation
8 concluded that sexual orientation change efforts can pose critical health risks to
9 lesbian, gay, and bisexual persons. Specific risks include confusion,
10 depression, guilt, helplessness, hopelessness, shame, social withdrawal,
11 suicidality, substance abuse, stress, disappointment, self-blame, decreased
12 self-esteem and authenticity to others, increased self-hatred, hostility and
13 blame toward parents, feelings of anger and betrayal, loss of friends and
14 potential romantic partners, problems in sexual and emotional intimacy, sexual
15 dysfunction, high-risk sexual behaviors, and a sense of having wasted time and
16 resources.

17 (2) The American Psychological Association issued a resolution on
18 Appropriate Affirmative Responses to Sexual Orientation Distress and Change
19 Efforts in 2009, which states: "[t]he American Psychological Association
20 advises parents, guardians, young people, and their families to avoid sexual
21 orientation change efforts that portray homosexuality as a mental illness or

1 developmental disorder and to seek psychotherapy, social support and
2 educational services that provide accurate information on sexual orientation
3 and sexuality, increase family and school support, and reduce rejection of
4 sexual minority youth.”

5 (3) The American Psychiatric Association published a position
6 statement in March 2000 stating: “[p]sychotherapeutic modalities to convert or
7 ‘repair’ homosexuality are based on developmental theories whose scientific
8 validity is questionable. Furthermore, anecdotal reports of ‘cures’ are
9 counterbalanced by anecdotal claims of psychological harm. In the last four
10 decades, ‘reparative’ therapists have not produced any rigorous scientific
11 research to substantiate their claims of cure. Until there is such research
12 available, [the American Psychiatric Association] recommends that ethical
13 practitioners refrain from attempts to change individuals’ sexual orientation,
14 keeping in mind the medical dictum to First, do no harm.”

15 (4) The American School Counselor Association recognized in a
16 position statement on professional school counselors and lesbian, gay,
17 bisexual, transgendered, and questioning (LGBTQ) youth that sexual
18 orientation is not an illness and does not require treatment. The statement
19 further provided that while “[i]t is not the role of the professional school
20 counselor to attempt to change a student’s sexual orientation/gender identity,”
21 the counselor may provide individual student planning or responsive services

1 to LGBTQ students to promote self-acceptance, deal with social acceptance,
2 understand issues related to coming out, and identify appropriate community
3 resources.

4 (5) The National Association of Social Workers prepared a 1997 policy
5 statement in which it states: “[s]ocial stigmatization of lesbian, gay and
6 bisexual people is widespread and is a primary motivating factor in leading
7 some people to seek sexual orientation changes.” It further states that
8 “[s]exual orientation conversion therapies assume that homosexual orientation
9 is both pathological and freely chosen. No data demonstrate that reparative or
10 conversion therapies are effective, and, in fact, they may be harmful.”

11 (6) In 1999, the American Counseling Association Governing Council
12 adopted a statement opposing reparative therapy as a cure for homosexual
13 individuals.

14 (7) The American Psychoanalytic Association issued a position
15 statement in June 2012 on attempts to change sexual orientation, gender,
16 identity, or gender expression, in which the Association states: “[a]s with any
17 societal prejudice, bias against individuals based on actual or perceived sexual
18 orientation, gender identity or gender expression negatively affects mental
19 health, contributing to an enduring sense of stigma and pervasive self-criticism
20 through the internalization of such prejudice.” The statement further explains
21 that “[p]sychoanalytic technique does not encompass purposeful attempts to

1 'convert,' 'repair,' change or shift an individual's sexual orientation, gender
2 identity or gender expression. Such directed efforts are against fundamental
3 principles of psychoanalytic treatment and often result in substantial
4 psychological pain by reinforcing damaging internalized attitudes."

5 (8) A 2012 article published in the Journal of the American Academy of
6 Child and Adolescent Psychiatry, entitled "Practice Parameter on Gay, Lesbian
7 or Bisexual Sexual Orientation, Gender-Nonconformity, and Gender
8 Discordance in Children and Adolescents," states: "[t]here is no empirical
9 evidence adult homosexuality can be prevented if gender nonconforming
10 children are influenced to be more gender conforming. Indeed, there is no
11 medically valid basis for attempting to prevent homosexuality, which is not an
12 illness. On the contrary, such efforts may encourage family rejection and
13 undermine self-esteem, connectedness and caring, important protective factors
14 against suicidal ideation and attempts."

15 (9) The Pan American Health Organization, a regional office of the
16 World Health Organization, issued a statement in May 2012 that: "[t]hese
17 supposed conversion therapies constitute a violation of the ethical principles of
18 health care and violate human rights that are protected by international and
19 regional agreements." The organization also noted that reparative therapies
20 "lack medical justification and represent a serious threat to the health and
21 well-being of affected people."

1 (10) Minors who experience family rejection based on their sexual
2 orientation face especially serious health risks. A 2009 article authored by
3 Caitlin Ryan, et al., entitled “Family Rejection as a Predictor of Negative
4 Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young
5 Adults,” found that lesbian, gay, and bisexual young adults who reported
6 higher levels of family rejection during adolescence were 8.4 times more likely
7 to report having attempted suicide, 5.9 times more likely to report high levels
8 of depression, 3.4 times more likely to use illegal drugs, and 3.4 times more
9 likely to report having engaged in unprotected sexual intercourse compared
10 with peers from families that reported no or low levels of family rejection.

11 (11) Vermont has a compelling interest in protecting the physical and
12 psychological well-being of children, including lesbian, gay, bisexual, and
13 transgender youth, and in protecting its children against exposure to serious
14 harms caused by sexual orientation conversion therapy.

15 * * * Sexual Orientation Conversion Therapy * * *

16 Sec. 2. 18 V.S.A. chapter 196 is added to read:

17 CHAPTER 196. SEXUAL ORIENTATION CONVERSION THERAPY

18 § 8351. DEFINITIONS

19 As used in this chapter:

20 (1) “Mental health care provider” means a person licensed to practice
21 medicine pursuant to 26 V.S.A. chapter 23, 33, or 81 who specializes in the

1 practice of psychiatry; a psychologist, a psychologist-doctorate, or a
2 psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as
3 defined in 26 V.S.A. § 3201; a clinical mental health counselor as defined in
4 26 V.S.A. § 3261; a licensed marriage and family therapist as defined in
5 26 V.S.A. § 4031; a psychoanalyst as defined in 26 V.S.A. § 4051; any other
6 allied mental health professional; or a student, intern, or trainee of any such
7 profession.

8 (2) “Sexual orientation conversion therapy” means any practice by a
9 mental health care provider that seeks to change an individual’s sexual
10 orientation, including efforts to change behaviors or gender expressions or to
11 eliminate or reduce sexual or romantic attractions or feelings toward
12 individuals of the same sex. “Sexual orientation conversion therapy” does not
13 include psychotherapies that:

14 (A) provide acceptance, support, and understanding of clients or the
15 facilitation of clients’ coping, social support, and identity exploration and
16 development, including sexual orientation-neutral interventions to prevent or
17 address unlawful conduct or unsafe sexual practices; and

18 (B) do not seek to change an individual’s sexual orientation.

19 § 8352. TREATMENT OF MINORS

20 A mental health care provider shall not use sexual orientation conversion
21 therapy with a client younger than 18 years of age.

1 § 8353. UNPROFESSIONAL CONDUCT

2 Any sexual orientation conversion therapy used on a client younger than 18
3 years of age by a mental health care provider shall constitute unprofessional
4 conduct as provided in the relevant provisions of Title 26 and shall subject the
5 mental health care provider to discipline pursuant to the applicable provisions
6 of that title and of 3 V.S.A. chapter 5.

7 * * * Physicians * * *

8 Sec. 3. 26 V.S.A. § 1354(a) is amended to read:

9 (a) The ~~board~~ Board shall find that any one of the following, or any
10 combination of the following, whether or not the conduct at issue was
11 committed within or outside the ~~state~~ State, constitutes unprofessional conduct:

12 * * *

13 (39) use of the services of a physician assistant by a physician in a
14 manner which is inconsistent with the provisions of chapter 31 of this title; or

15 (40) use of sexual orientation conversion therapy as defined in
16 18 V.S.A. § 8351 on a client younger than 18 years of age.

17 * * * Osteopathy * * *

18 Sec. 4. 26 V.S.A. § 1842(b) is amended to read:

19 (b) Unprofessional conduct means the following conduct and conduct set
20 forth in 3 V.S.A. § 129a;

21 * * *

1 roles such as testifying in a child custody dispute or divorce proceedings
2 involving clients; or

3 (13) using sexual orientation conversion therapy as defined in 18 V.S.A.
4 § 8351 on a client younger than 18 years of age.

5 * * * Clinical Mental Health Counselors * * *

6 Sec. 7. 26 V.S.A. § 3271(a) is amended to read:

7 (a) Unprofessional conduct means the following conduct and conduct set
8 forth in 3 V.S.A. § 129a:

9 * * *

10 (7) independently practicing outside or beyond a clinical mental health
11 counselor's area of training, experience or competence without appropriate
12 supervision; or

13 (8) using sexual orientation conversion therapy as defined in 18 V.S.A.
14 § 8351 on a client younger than 18 years of age.

15 * * * Marriage and Family Therapists * * *

16 Sec. 8. 26 V.S.A. § 4042(a) is amended to read:

17 (a) Unprofessional conduct means the following conduct and the conduct
18 set forth in 3 V.S.A. § 129a:

19 * * *

20 (7) Using sexual orientation conversion therapy as defined in 18 V.S.A.
21 § 8351 on a client younger than 18 years of age.

