

6983--B

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I N A S S E M B L Y

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Introduced by M. of A. GLICK, TITONE, JAFFEE, O'DONNELL, BARRETT, ROBERTS, ROSA, SKOUFIS, ZEBROWSKI, SCHIMEL, ROSENTHAL, KAVANAGH, BRONSON, MOSLEY, BRINDISI, PAULIN, CAHILL, LIFTON, ORTIZ -- Multi-Sponsored by -- M. of A. ARROYO, COOK, HEVESI, LAVINE, MILLMAN, RYAN, SEPULVEDA, STIRPE, THIELE -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to prohibiting mental health professionals from engaging in sexual orientation change efforts with a patient under the age of eighteen years and expanding the definition of professional misconduct with respect to mental health professionals

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and intent. The Legislature hereby
2 finds and declares all of the following:
3 a. Being lesbian, gay, bisexual or transgender is not a disease,
4 disorder, illness, deficiency, or shortcoming. The major professional
5 associations of mental health practitioners and researchers in the
6 United States have recognized this fact for nearly 40 years.
7 b. The American Psychological Association convened a Task Force on
8 Appropriate Therapeutic Responses to Sexual Orientation. The task force
9 conducted a systematic review of peer-reviewed journal literature on
10 sexual orientation change efforts, and issued a report in 2009. The task
11 force concluded that sexual orientation change efforts can pose critical
12 health risks to lesbian, gay, bisexual or transgender people, including
13 confusion, depression, guilt, helplessness, hopelessness, shame, social

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 withdrawal, suicidality, substance abuse, stress, disappointment, self-
2 blame, decreased self-esteem and authenticity to others, increased self-
3 hatred, hostility and blame toward parents, feelings of anger and
4 betrayal, loss of friends and potential romantic partners, problems in
5 sexual and emotional intimacy, sexual dysfunction, high-risk sexual
6 behaviors, a feeling of being dehumanized and untrue to self, a loss of
7 faith, and a sense of having wasted time and resources.

8 c. The American Psychological Association issued a resolution on
9 Appropriate Affirmative Responses to Sexual Orientation Distress and
10 Change Efforts in 2009, which states: The American Psychological Associ-
11 ation advises parents, guardians, young people, and their families to
12 avoid sexual orientation change efforts that portray homosexuality as a
13 mental illness or developmental disorder and to seek psychotherapy,
14 social supports, and educational services that provide accurate informa-
15 tion on sexual orientation and sexuality, increase family and school
16 support, and reduce rejection of sexual minority youth.

17 d. The American Psychiatric Association published a position statement
18 in March of 2000 in which it stated: "Psychotherapeutic modalities to
19 convert or 'repair' homosexuality are based on developmental theories
20 whose scientific validity is questionable. Furthermore, anecdotal
21 reports of 'cures' are counterbalanced by anecdotal claims of psycholog-
22 ical harm. In the last four decades, 'reparative' therapists have not
23 produced any rigorous scientific research to substantiate their claims
24 of cure. Until there is such research available, the American Psychiat-
25 ric Association recommends that ethical practitioners refrain from
26 attempts to change individuals' sexual orientation, keeping in mind the
27 medical dictum to first, do no harm. The potential risks of reparative
28 therapy are great, including depression, anxiety and self-destructive
29 behavior, since therapist alignment with societal prejudices against
30 homosexuality may reinforce self-hatred already experienced by the
31 patient. Many patients who have undergone reparative therapy relate that
32 they were inaccurately told that homosexuals are lonely, unhappy indi-
33 viduals who never achieve acceptance or satisfaction. The possibility
34 that the person might achieve happiness and satisfying interpersonal
35 relationships as a gay man or lesbian is not presented, nor are alterna-
36 tive approaches to dealing with the effects of societal stigmatization
37 discussed. Therefore, the American Psychiatric Association opposes any
38 psychiatric treatment such as reparative or conversion therapy which is
39 based upon the assumption that homosexuality per se is a mental disorder
40 or based upon the a priori assumption that a patient should change
41 his/her sexual orientation."

42 e. The American School Counselor Association's position statement on
43 professional school counselors and lesbian, gay, bisexual, transgen-
44 dered, and questioning (LGBTQ) youth states: It is not the role of the
45 professional school counselor to attempt to change a student's sexual
46 orientation/gender identity but instead to provide support to LGBTQ
47 students to promote student achievement and personal well-being. Recog-
48 nizing that sexual orientation is not an illness and does not require
49 treatment, professional school counselors may provide individual student
50 planning or responsive services to LGBTQ students to promote self-accept-
51 tance, deal with social acceptance, understand issues related to coming
52 out, including issues that families may face when a student goes through
53 this process and identify appropriate community resources.

54 f. The American Academy of Pediatrics in 1993 published an article in
55 its journal, Pediatrics, stating: Therapy directed at specifically
56 changing sexual orientation is contraindicated, since it can provoke

1 guilt and anxiety while having little or no potential for achieving
2 changes in orientation.

3 g. The American Medical Association Council on Scientific Affairs
4 prepared a report in 1994 in which it stated: Aversion therapy (a behav-
5 ioral or medical intervention which pairs unwanted behavior , in this
6 case, homosexual behavior, with unpleasant sensations or aversive conse-
7 quences) is no longer recommended for gay men and lesbians. Through
8 psychotherapy, gay men and lesbians can become comfortable with their
9 sexual orientation and understand the societal response to it.

10 h. The National Association of Social Workers prepared a 1997 policy
11 statement in which it stated: Social stigmatization of lesbian, gay and
12 bisexual people is widespread and is a primary motivating factor in
13 leading some people to seek sexual orientation changes. Sexual orien-
14 tation conversion therapies assume that homosexual orientation is both
15 pathological and freely chosen. No data demonstrates that reparative or
16 conversion therapies are effective, and, in fact, they may be harmful.

17 i. The American Counseling Association Governing Council issued a
18 position statement in April of 1999, and in it the council states: We
19 oppose 'the promotion of 'reparative therapy' as a 'cure' for individ-
20 uals who are homosexual.

21 j. The American Psychoanalytic Association issued a position statement
22 in June 2012 on attempts to change sexual orientation, gender, identity,
23 or gender expression, and in it the association states: As with any
24 societal prejudice, bias against individuals based on actual or
25 perceived sexual orientation, gender identity or gender expression nega-
26 tively affects mental health, contributing to an enduring sense of stig-
27 ma and pervasive self-criticism through the internalization of such
28 prejudice. Psychoanalytic technique does not encompass purposeful
29 attempts to 'convert,' 'repair,' change or shift an individual's sexual
30 orientation, gender identity or gender expression. Such directed
31 efforts are against fundamental principles of psychoanalytic treatment
32 and often result in substantial psychological pain by reinforcing damag-
33 ing internalized attitudes.

34 k. The American Academy of Child and Adolescent Psychiatry in 2012
35 published an article in its journal, Journal of the American Academy of
36 Child and Adolescent Psychiatry, stating: Clinicians should be aware
37 that there is no evidence that sexual orientation can be altered through
38 therapy, and that attempts to do so may be harmful. There is no empir-
39 ical evidence adult homosexuality can be prevented if gender nonconform-
40 ing children are influenced to be more gender conforming. Indeed, there
41 is not medically valid basis for attempting to prevent homosexuality,
42 which is not an illness. On the contrary, such efforts may encourage
43 family rejection and undermine self-esteem, connectedness and caring,
44 important protective factors against suicidal ideation and attempts.
45 Given that there is no evidence that efforts to alter sexual orientation
46 are effect, beneficial or necessary, and the possibility that they carry
47 the risk of significant harm, such interventions are contraindicated.

48 l. The Pan American Health Organization, a regional office of the
49 World Health Organization, issued a statement in May of 2012 and in it
50 the organization states: These supposed conversion therapies constitute
51 a violation of the ethical principles of health care and violate human
52 rights that are protected by international regional agreements. The
53 organization also noted that reparative therapies lack medical justi-
54 fication and represent a serious threat to the health and well-being of
55 affected people.

1 m. Minors who experience family rejection based on their sexual orien-
2 tation face especially serious health risks. In one study, lesbian, gay,
3 and bisexual young adults who reported higher levels of family rejection
4 during adolescence were 8.4 times more likely to report having attempted
5 suicide, 5.9 times more likely to report high levels of depression, 3.4
6 times more likely to use illegal drugs, and 3.4 times more likely to
7 report having engaged in unprotected sexual intercourse compared with
8 peers from families that reported no or low levels of family rejection.
9 This is documented by Caitlin Ryan et al. in their article entitled
10 Family Rejection as a Predictor of Negative Health Outcomes in White and
11 Latino Lesbian, Gay, and Bisexual Young Adults (2009) 123 Pediatrics
12 346.

13 n. New York has a compelling interest in protecting the physical and
14 psychological well-being of minors, including lesbian, gay, bisexual,
15 and transgender youth, and in protecting its minors against exposure to
16 serious harms caused by sexual orientation change efforts.

17 S 2. The education law is amended by adding a new section 6509-d to
18 read as follows:

19 S 6509-D. ADDITIONAL DEFINITION OF PROFESSIONAL MISCONDUCT; MENTAL
20 HEALTH PROFESSIONALS. 1. FOR THE PURPOSES OF THIS SECTION:

21 A. "MENTAL HEALTH PROFESSIONAL" MEANS A PERSON SUBJECT TO THE
22 PROVISIONS OF ARTICLE ONE HUNDRED FIFTY-THREE, ONE HUNDRED FIFTY-FOUR OR
23 ONE HUNDRED SIXTY-THREE OF THIS TITLE; OR ANY OTHER PERSON DESIGNATED AS
24 A MENTAL HEALTH PROFESSIONAL PURSUANT TO LAW, RULE OR REGULATION.

25 B. "SEXUAL ORIENTATION CHANGE EFFORTS" (I) MEANS ANY PRACTICE BY A
26 MENTAL HEALTH PROFESSIONAL THAT SEEKS TO CHANGE AN INDIVIDUAL'S SEXUAL
27 ORIENTATION, INCLUDING, BUT NOT LIMITED TO, EFFORTS TO CHANGE BEHAVIORS,
28 GENDER IDENTITY, OR GENDER EXPRESSIONS, OR TO ELIMINATE OR REDUCE SEXUAL
29 OR ROMANTIC ATTRACTIONS OR FEELINGS TOWARDS INDIVIDUALS OF THE SAME SEX
30 AND (II) SHALL NOT INCLUDE COUNSELING FOR A PERSON SEEKING TO TRANSITION
31 FROM ONE GENDER TO ANOTHER, OR PSYCHOTHERAPIES THAT: (A) PROVIDE ACCEPT-
32 ANCE, SUPPORT AND UNDERSTANDING OF PATIENTS OR THE FACILITATION OF
33 PATIENTS' COPING, SOCIAL SUPPORT AND IDENTITY EXPLORATION AND DEVELOP-
34 MENT, INCLUDING SEXUAL ORIENTATION-NEUTRAL INTERVENTIONS TO PREVENT OR
35 ADDRESS UNLAWFUL CONDUCT OR UNSAFE SEXUAL PRACTICES; AND (B) DO NOT SEEK
36 TO CHANGE SEXUAL ORIENTATION.

37 2. IT SHALL BE PROFESSIONAL MISCONDUCT FOR A MENTAL HEALTH PROFES-
38 SIONAL TO ENGAGE IN SEXUAL ORIENTATION CHANGE EFFORTS UPON ANY PATIENT
39 UNDER THE AGE OF EIGHTEEN YEARS, AND ANY MENTAL HEALTH PROFESSIONAL
40 FOUND GUILTY OF SUCH MISCONDUCT UNDER THE PROCEDURES PRESCRIBED IN
41 SECTION SIXTY-FIVE HUNDRED TEN OF THIS SUBARTICLE SHALL BE SUBJECT TO
42 THE PENALTIES PRESCRIBED IN SECTION SIXTY-FIVE HUNDRED ELEVEN OF THIS
43 SUBARTICLE.

44 S 3. The education law is amended by adding a new section 6531-a to
45 read as follows:

46 S 6531-A. ADDITIONAL DEFINITION OF PROFESSIONAL MISCONDUCT; MENTAL
47 HEALTH PROFESSIONALS. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION:

48 A. "MENTAL HEALTH PROFESSIONAL" MEANS A PERSON SUBJECT TO THE
49 PROVISIONS OF ARTICLE ONE HUNDRED THIRTY-ONE OF THIS TITLE.

50 B. "SEXUAL ORIENTATION CHANGE EFFORTS" (I) MEANS ANY PRACTICE BY A
51 MENTAL HEALTH PROFESSIONAL THAT SEEKS TO CHANGE AN INDIVIDUAL'S SEXUAL
52 ORIENTATION, INCLUDING, BUT NOT LIMITED TO, EFFORTS TO CHANGE BEHAVIORS,
53 GENDER IDENTITY, OR GENDER EXPRESSIONS, OR TO ELIMINATE OR REDUCE SEXUAL
54 OR ROMANTIC ATTRACTIONS OR FEELINGS TOWARDS INDIVIDUALS OF THE SAME SEX;
55 AND (II) SHALL NOT INCLUDE COUNSELING FOR A PERSON SEEKING TO TRANSITION
56 FROM ONE GENDER TO ANOTHER, OR PSYCHOTHERAPIES THAT: (A) PROVIDE ACCEPT-

1 ANCE, SUPPORT AND UNDERSTANDING OF PATIENTS OR THE FACILITATION OF
2 PATIENTS' COPING, SOCIAL SUPPORT, AND IDENTITY EXPLORATION AND DEVELOP-
3 MENT, INCLUDING SEXUAL ORIENTATION-NEUTRAL INTERVENTIONS TO PREVENT OR
4 ADDRESS UNLAWFUL CONDUCT OR UNSAFE SEXUAL PRACTICES; AND (B) DO NOT SEEK
5 TO CHANGE SEXUAL ORIENTATION.

6 2. IT SHALL BE PROFESSIONAL MISCONDUCT FOR A MENTAL HEALTH PROFES-
7 SIONAL TO ENGAGE IN SEXUAL ORIENTATION CHANGE EFFORTS UPON ANY PATIENT
8 UNDER THE AGE OF EIGHTEEN YEARS, AND ANY MENTAL HEALTH PROFESSIONAL
9 FOUND GUILTY OF SUCH MISCONDUCT UNDER THE PROCEDURES PRESCRIBED IN TITLE
10 TWO-A OF ARTICLE TWO OF THE PUBLIC HEALTH LAW SHALL BE SUBJECT TO THE
11 PENALTIES PRESCRIBED IN SECTION TWO HUNDRED THIRTY-A OF THE PUBLIC
12 HEALTH LAW, AS ADDED BY CHAPTER SIX HUNDRED SIX OF THE LAWS OF NINETEEN
13 HUNDRED NINETY-ONE.

14 S 4. This act shall take effect immediately.