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S.132

Introduced by Senators Campion, Ayer, Baruth, Lyons, and McCormack

Referred to Committee on Health and Welfare

Date: March 12, 2015

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

Statement of purpose of bill as introduced: This bill proposes to prohibit mental health care providers from practicing conversion therapy on patients younger than 18 years of age.

An act relating to the prohibition of conversion therapy on minors

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

~~*** Findings ***~~

~~Sec. 1. FINDINGS~~

~~In recognition that being lesbian, gay, bisexual, or transgender is part of the natural spectrum of human identity and is not a disease, disorder, illness, deficiency, or shortcoming, the General Assembly finds:~~

~~(1) After conducting an evaluation of peer-reviewed journal literature on sexual orientation change efforts, the American Psychological Association's Task Force on Appropriate Therapeutic Responses to Sexual Orientation concluded that sexual orientation change efforts can pose critical health risks to lesbian, gay, and bisexual persons. Specific risks include confusion,~~

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

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

17 (3) The American Psychiatric Association published a position
18 statement in March 2000 stating: “[p]sychotherapeutic modalities to convert or
19 ‘repair’ homosexuality are based on developmental theories whose scientific
20 validity is questionable. Furthermore, anecdotal reports of ‘cures’ are
21 counterbalanced by anecdotal claims of psychological harm. In the last four

1 ~~decades, 'reparative' therapists have not produced any rigorous scientific~~
2 research to substantiate their claims of cure. Until there is such research
3 available, [the American Psychiatric Association] recommends that ethical
4 practitioners refrain from attempts to change individuals' sexual orientation,
5 keeping in mind the medical dictum to First, do no harm."

6 (4) The American School Counselor Association recognized in a
7 position statement on professional school counselors and lesbian, gay,
8 bisexual, transgendered, and questioning (LGBTQ) youth that sexual
9 orientation is not an illness and does not require treatment. The statement
10 further provided that while "[i]t is not the role of the professional school
11 counselor to attempt to change a student's sexual orientation/gender identity,"
12 the counselor may provide individual student planning or responsive services
13 to LGBTQ students to promote self-acceptance, deal with social acceptance,
14 understand issues related to coming out, and identify appropriate community
15 resources.

16 (5) The National Association of Social Workers prepared a 1997 policy
17 statement in which it states: "[s]ocial stigmatization of lesbian, gay and
18 bisexual people is widespread and is a primary motivating factor in leading
19 some people to seek sexual orientation changes." It further states that
20 "[s]exual orientation conversion therapies assume that homosexual orientation

1 ~~is both pathological and freely chosen. No data demonstrate that reparative or~~
2 ~~conversion therapies are effective, and, in fact, they may be harmful.”~~

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

6 (7) The American Psychoanalytic Association issued a position
7 statement in June 2012 on attempts to change sexual orientation, gender,
8 identity, or gender expression, in which the Association states: “[a]s with any
9 societal prejudice, bias against individuals based on actual or perceived sexual
10 orientation, gender identity or gender expression negatively affects mental
11 health, contributing to an enduring sense of stigma and pervasive self-criticism
12 through the internalization of such prejudice.” The statement further explains
13 that “[p]sychoanalytic technique does not encompass purposeful attempts to
14 ‘convert,’ ‘repair,’ change or shift an individual’s sexual orientation, gender
15 identity or gender expression. Such directed efforts are against fundamental
16 principles of psychoanalytic treatment and often result in substantial
17 psychological pain by reinforcing damaging internalized attitudes.”

18 (8) A 2012 article published in the Journal of the American Academy of
19 Child and Adolescent Psychiatry, entitled “Practice Parameter on Gay, Lesbian
20 or Bisexual Sexual Orientation, Gender-Nonconformity, and Gender
21 Discordance in Children and Adolescents,” states: “[t]here is no empirical

1 ~~evidence adult homosexuality can be prevented if gender nonconforming~~
2 children are influenced to be more gender conforming. Indeed, there is no
3 medically valid basis for attempting to prevent homosexuality, which is not an
4 illness. On the contrary, such efforts may encourage family rejection and
5 undermine self-esteem, connectedness and caring, important protective factors
6 against suicidal ideation and attempts.”

7 (9) The Pan American Health Organization, a regional office of the
8 World Health Organization, issued a statement in May 2012 that: “[t]hese
9 supposed conversion therapies constitute a violation of the ethical principles of
10 health care and violate human rights that are protected by international and
11 regional agreements.” The organization also noted that reparative therapies
12 “lack medical justification and represent a serious threat to the health and
13 well-being of affected people.”

14 (10) Minors who experience family rejection based on their sexual
15 orientation face especially serious health risks. A 2009 article authored by
16 Caitlin Ryan, et al., entitled “Family Rejection as a Predictor of Negative
17 Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young
18 Adults,” found that lesbian, gay, and bisexual young adults who reported
19 higher levels of family rejection during adolescence were 8.4 times more likely
20 to report having attempted suicide, 5.9 times more likely to report high levels
21 of depression, 3.4 times more likely to use illegal drugs, and 3.4 times more

1 ~~likely to report having engaged in unprotected sexual intercourse compared~~
2 ~~with peers from families that reported no or low levels of family rejection.~~

3 (1) Vermont has a compelling interest in protecting the physical and
4 psychological well-being of children, including lesbian, gay, bisexual, and
5 transgender youth, and in protecting its children against exposure to serious
6 harms caused by conversion therapy.

7 * * * Conversion Therapy * * *

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

9 CHAPTER 196. CONVERSION THERAPY

10 § 8351. DEFINITIONS

11 As used in this chapter:

12 (1) "Conversion therapy" means any practice by a mental health care
13 provider that seeks to change an individual's sexual orientation, including
14 efforts to change behaviors or gender expressions or to eliminate or reduce
15 sexual or romantic attractions or feelings toward individuals of the same sex.

16 "Conversion therapy" does not include psychotherapies that:

17 (A) provide support to an individual undergoing gender
18 transition; and

19 (B) provide acceptance, support, and understanding of clients or the
20 facilitation of clients' coping, social support, and identity exploration and
21 development, including sexual-orientation-neutral interventions to prevent or

1 ~~address unlawful conduct or unsafe sexual practices and that do not seek to~~
2 change an individual's sexual orientation or gender identity.

3 (2) "Mental health care provider" means a person licensed to practice
4 medicine pursuant to 26 V.S.A. chapter 23, 33, or 81 who specializes in the
5 practice of psychiatry; a psychologist, a psychologist-doctorate, or a
6 psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as
7 defined in 26 V.S.A. § 3201; a clinical mental health counselor as defined in
8 26 V.S.A. § 3261; a licensed marriage and family therapist as defined in
9 26 V.S.A. § 4031; a psychoanalyst as defined in 26 V.S.A. § 4051; any other
10 allied mental health professional; or a student, intern, or trainee of any such
11 profession.

12 § 8352. TREATMENT OF MINORS

13 A mental health care provider shall not use conversion therapy with a client
14 younger than 18 years of age.

15 § 8353. UNPROFESSIONAL CONDUCT

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

~~*** Physicians ***~~

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

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

~~***~~

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

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

~~*** Osteopathy ***~~

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

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

~~***~~

(13) Use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

1 *** Psychologists ***

2 Sec. 5. 26 V.S.A. § 3016 is amended to read:

3 § 3016. UNPROFESSIONAL CONDUCT

4 Unprofessional conduct means the conduct listed in this section and in
5 3 V.S.A. § 129a:

6 * * *

7 (11) Use of conversion therapy as defined in 18 V.S.A. § 8351 on a
8 client younger than 18 years of age.

9 * * * Clinical Social Workers * * *

10 Sec. 6. 26 V.S.A. § 3210(a) is amended to read:

11 (a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a
12 licensed social worker constitutes unprofessional conduct. When that conduct
13 is by an applicant or a person who later becomes an applicant, it may constitute
14 grounds for denial of a license:

15 * * *

16 (12) failing to clarify the clinical social worker's role with the parties
17 involved and to take appropriate action to minimize any conflicts of interest,
18 when the clinical social worker anticipates a conflict of interest among the
19 individuals receiving services or anticipates having to perform in conflicting
20 roles such as testifying in a child custody dispute or divorce proceedings
21 involving clients; or

1 ~~(13) using conversion therapy as defined in 18 V.S.A. § 8351 on a client~~
2 younger than 18 years of age.

3 * * * Clinical Mental Health Counselors * * *

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

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

7 * * *

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

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

13 * * * Marriage and Family Therapists * * *

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

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

17 * * *

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

~~*** Psychoanalysts ***~~

~~Sec. 9. 26 V.S.A. § 4062(a) is amended to read:~~

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

~~***~~

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

~~*** Naturopathic Physicians ***~~

~~Sec. 10. 26 V.S.A. § 4132(a) is amended to read:~~

~~(a) The following conduct and conduct set forth in 3 V.S.A. § 129a by a person licensed under this chapter or an applicant for licensure constitutes unprofessional conduct:~~

~~***~~

~~(11) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.~~

~~*** Effective Date ***~~

~~Sec. 11. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2015.~~

~~*** Findings ***~~

~~*Sec. 1. FINDINGS*~~

~~*In recognition that being lesbian, gay, bisexual, or transgender is part of the natural spectrum of human identity and is not a disease, disorder, illness, deficiency, or shortcoming, the General Assembly finds:*~~

(1) Vermont has a compelling interest in protecting the physical and psychological well-being of children, including lesbian, gay, bisexual, and transgender youth, and in protecting its children against exposure to serious harms.

(2) A 2015 report published by the U.S. Substance Abuse and Mental Health Service's Administration states "conversion therapy...is a practice that is not supported by credible evidence and has been disavowed by behavioral health experts and associations...[m]ost importantly, it may put young people at risk of serious harm."

(3) The American Academy of Pediatrics, the American Counseling Association, the American Psychiatric Association, the American Psychological Association, the National Association of School Psychologists, and the National Association of Social Workers, together representing more than 477,000 health and mental health professionals, have all taken the position that homosexuality is not a mental disorder and thus there is no need for a "cure."

* * * Conversion Therapy * * *

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

CHAPTER 196. CONVERSION THERAPY

§ 8351. DEFINITIONS

As used in this chapter:

(1) "Conversion therapy" means any practice by a mental health care provider that seeks to change an individual's sexual orientation, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex. "Conversion therapy" does not include psychotherapies that:

(A) provide support to an individual undergoing gender transition; and

(B) 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 that do not seek to change an individual's sexual orientation or gender identity.

(2) "Mental health care provider" means a person licensed to practice medicine pursuant to 26 V.S.A. chapter 23, 33, or 81 who specializes in the practice of psychiatry; a psychologist, a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; a clinical mental health counselor as defined in

26 V.S.A. § 3261; a licensed marriage and family therapist as defined in 26 V.S.A. § 4031; a psychoanalyst as defined in 26 V.S.A. § 4051; any other allied mental health professional; or a student, intern, or trainee of any such profession.

§ 8352. TREATMENT OF MINORS

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

§ 8353. UNPROFESSIONAL CONDUCT

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

* * * Physicians * * *

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

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

* * *

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

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

* * * Osteopathy * * *

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

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

* * *

(13) Use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

**** Psychologists ****

Sec. 5. 26 V.S.A. § 3016 is amended to read:

§ 3016. UNPROFESSIONAL CONDUCT

Unprofessional conduct means the conduct listed in this section and in 3 V.S.A. § 129a:

(11) Use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

**** Clinical Social Workers ****

Sec. 6. 26 V.S.A. § 3210(a) is amended to read:

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a licensed social worker constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial of a license:

(12) failing to clarify the clinical social worker's role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients; or

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

Sec. 7. 26 V.S.A. § 3210(a) is amended to read:

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a person licensed under this chapter constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial or discipline of a license:

(12) failing to clarify the licensee's role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients; or

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

**** Clinical Mental Health Counselors ****

Sec. 8. 26 V.S.A. § 3271(a) is amended to read:

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

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

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

**** Marriage and Family Therapists ****

Sec. 9. 26 V.S.A. § 4042(a) is amended to read:

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

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

**** Psychoanalysts ****

Sec. 10. 26 V.S.A. § 4062(a) is amended to read:

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

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

**** Naturopathic Physicians ****

Sec. 11. 26 V.S.A. § 4132(a) is amended to read:

(a) The following conduct and conduct set forth in 3 V.S.A. § 129a by a person licensed under this chapter or an applicant for licensure constitutes unprofessional conduct:

(11) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

**** Effective Dates ****

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except Sec. 7 shall take effect on July 1, 2017.