NO. 25-1105

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

CATHOLIC CHARITIES OF JACKSON, LENAWEE AND HILLSDALE COUNTIES, et al.,

Plaintiffs-Appellants,

v.

GRETCHEN WHITMER, in her official capacity as Governor of Michigan, et al.,

Defendants-Appellees.

On Appeal from the U.S. District Court for the Western District of Michigan, No. 24-cv-00718
The Honorable Jane M. Beckering

BRIEF OF AMICI CURIAE WASHINGTON, CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, HAWAIʻI, ILLINOIS, MAINE, MARYLAND, MINNESOTA, NEVADA, NEW JERSEY, NEW MEXICO, NEW YORK, NORTH CAROLINA, OREGON, RHODE ISLAND, VERMONT, AND WISCONSIN IN SUPPORT OF DEFENDANTS-APPELLEES

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Nat'l Ass'n for the Advancement of Psychoanalysis v.
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Nat'l Inst. of Fam. & Life Advocs. v. Becerra (*NIFLA*),
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Williamson v. Lee Optical of Okla., Inc.,
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H.B. 4617, 102nd Leg., Reg. Sess. (Mich. 2023)
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Mich. Comp. Laws § 330.1901a 19

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Mich. Comp. Laws § 333.18114 27

Mich. Comp. Laws § 333.18251 24

2012 Cal. Legis. Serv. ch. 835 ..... 8, 9

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Legislative and Executive Materials

Assemb. B. 3371, 216th Leg., 1st Ann. Sess. (N.J. 2013) 5, 9

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Exec. Order by Gov. Katie Hobbs, No. 2023-13 (Ariz. 2023) 5

Exec. Order by Gov. Roy Cooper, No. 97 (N.C. 2019) 5

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H.B. 140, 191st Leg., Reg. Sess. (Mass. 2019) 5

H.B. 19-1129, 72nd Gen. Assemb., 1st Reg. Sess. (Colo. 2019) 5

H.B. 228, 65th Leg., Reg. Sess. (Utah 2023) 5

H.B. 2307, 78th Leg., Reg. Sess. (Or. 2015) 5

H.B. 386, 2020 Gen. Assemb., Reg. Sess. (Va. 2020) 5

H.B. 587, 165th Gen. Ct., Reg. Sess. (N.H. 2018) 5

H.B. 664, 30th Leg., Reg. Sess. (Haw. 2019) 5

L.D. 1025, 129th Leg., 1st Reg. Sess. (Me. 2019) 5

S.B. 1028, 438th Gen. Assemb., Reg. Sess. (Md. 2018) 5

S.B. 1046, 242nd Leg., Reg. Sess. (N.Y. 2019) 5

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S.B. 121, 53rd Leg., 1st Sess. (N.M. 2017) 5

S.B. 132, 2015-16 Leg., Reg. Sess. (Vt. 2016) 5

S.B. 201, 79th Leg., Reg. Sess. (Nev. 2017) 5

S.B. 270, 29th Leg., Reg. Sess. (Haw. 2018) 5

S.B. 5722, 65th Leg., Reg. Sess. (Wash. 2018) 5

S.B. 65, 149th Gen. Assemb., Reg. Sess. (Del. 2018) 5

Substitute H.B. 5277, Gen. Assemb., Reg. Sess. (R.I. 2017) 5

Substitute H.B. 6695, 2017 Gen. Assemb., Reg. Sess. (Conn. 2017) 5

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Other Authorities

Am. Psych. Ass'n, *Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation* (2009), https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf 2, 6-7

Anna M. de Haan et al., *A meta-analytic review on treatment dropout in child and adolescent outpatient mental health care*, 33 CLINICAL PSYCH. REV. 698 (2013), https://doi.org/10.1016/j.cpr.2013.04.005 26

Caitlin Ryan, et al., *Parent-Initiated Sexual Orientation Change Efforts with LGBT Adolescents: Implications for Young Adult Mental Health and Adjustment*, 67 J. OF HOMOSEXUALITY 159 (2018), https://doi.org/10.1080/00918369.2018.1538407 11

Governor's Statement Upon Signing Assembly Bill No. 3371 (Aug. 19, 2013), https://pub.njleg.state.nj.us/Bills/2012/A3500/3371_G1.PDF 9-10

Jack L. Turban, et al., *Association Between Recalled Exposure to Gender Identity Conversion Efforts and Psychological Distress and Suicide Attempts Among Transgender Adults*, 77 JAMA PSYCHIATRY 68 (2020), doi:10.1001/jamapsychiatry.2019.2285 11-12

Jim Melwert, *New Jersey Gov. Christie Signing Ban on 'Gay Conversion' Therapy*, CBS News, Aug. 19, 2013, https://www.cbsnews.com/philadelphia/news/new-jersey-gov-chris-christie-to-sign-ban-on-gay-conversion-therapy/ 9

Ohio Board of Psychology, *Conversion Therapy Advisory*, (Apr. 14, 2016), https://psychology.ohio.gov/laws-rules-resources/advisories-resources/conversion-therapy-advisory 25-26

U.S Dep't of Health & Hum. Servs., Substance Abuse & Mental Health Servs. Admin., *Moving Beyond Change Efforts: Evidence and Action to Support and Affirm LGBTQI+ Youth* (2023), https://www.govinfo.gov/app/details/GOVPUB-HE20-PURL-gpo195344 12

I. INTERESTS OF AMICI CURIAE

Washington, California, Colorado, Connecticut, Delaware, District of Columbia, Hawai'i, Illinois, Maine, Maryland, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, and Wisconsin (Amici States) submit this brief in support of Defendants-Appellees. Amici States have significant interests in this case as they are among the over twenty-five states that have exercised their police power to prohibit or restrict the practice of conversion therapy on minors—a practice that has been found to be dangerous and ineffective—by state-licensed professionals, including counselors and therapists.

Amici States have strong interests in regulating the practice of health care, including care relating to mental health, within their boundaries to protect public health and safety. *See Goldfarb v. Va. State Bar*, 421 U.S. 773, 792 (1975). Amici States additionally share compelling interests in protecting the health, safety, and well-being of children and youth, and in affirming the dignity and equal worth and treatment of LGBTQI+ minors. Amici States seek to safeguard their authority to prevent a practice from being provided to minors under the auspices of a

state-issued license that extensive evidence shows to be ineffective and harmful, all leading professional medical organizations agree is not a safe or effective treatment for any condition and puts minors at risk of serious harms, and accordingly fails to meet acceptable standards of professional practice. Amici States thus share significant interests in ensuring the appropriate application of the First Amendment to professional conduct regulations, like Michigan's law challenged here.

II. SUMMARY OF ARGUMENT

Conversion therapy, also referred to as sexual orientation and gender identity change efforts, encompasses a range of interventions directed at the specific outcomes of changing a person's sexual orientation or gender identity. Interventions may include aversive physical therapies, such as electric shock treatment or the use of nausea-inducing drugs, as well as non-aversive therapies, which may incorporate approaches such as psychoanalysis and counseling. *See* Am. Psych. Ass'n, *Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation* 22, 31 (2009), https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf.

Like many States, Michigan prohibits licensed mental health practitioners from practicing conversion therapy on minors. H.B. 4616, H.B. 4617, 102nd Leg., Reg. Sess. (Mich. 2023) (*codified at* Mich. Comp. Laws §§330.1901a, 330.1100a(20)) (hereafter "HB 4616"). In so doing, Michigan appropriately relied on the evidence-based professional consensus that conversion therapy falls below the standard of care for mental health practitioners because it is not a safe or effective treatment for any condition and puts minors at risk of serious harms, including increased risks of suicidality and depression. At issue in this case is whether Michigan validly exercised its police power to regulate professional conduct that falls below well-accepted medical standards of care. As Amici States lay out below, Michigan did.[1]

For at least three reasons, this Court should affirm the district court's denial of Plaintiffs-Appellants' request to preliminarily enjoin

[1] This brief discusses Appellants' free speech claim, but Amici States agree with Michigan that the district court correctly rejected Plaintiffs' due process and free exercise claims. HB 4616 is not vague because "the terms of the statute provide a clear, dividing line: whether change is the object." *Tingley v. Ferguson*, 47 F.4th 1055, 1090 (9th Cir. 2022). Moreover, the law is not "specifically directed at religious practice," nor is religious exercise "otherwise its object." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 526 (2022) (citation modified).

enforcement of Michigan's HB 4616. First, the First Amendment's free speech clause does not immunize mental health practices that have been found to be dangerous and ineffective from regulation, nor does it allow mental health professionals to operate below the standard of care by implementing such dangerous and ineffective practices. Rather, First Amendment jurisprudence has consistently held that states may regulate professional conduct, even if that regulation incidentally impacts speech. Second, states have a long history of establishing and regulating professional standards of care. Prohibiting licensed healthcare professionals from providing conversion therapy—a "treatment" resoundingly found to not be an acceptable medical or professional practice because it is ineffective and harmful—is consistent with this tradition and does not run afoul of the First Amendment. Third, a contrary conclusion would likely lead to significant consequences for states' authority to regulate professional practices within their borders. For these reasons and more, this Court should affirm.

III. ARGUMENT

A. States Across the Country Have Similarly Protected Youth from a Harmful and Discredited Practice that Falls Below Medical Standards of Care

HB 4616 is not an outlier. Over twenty-five states and the District of Columbia have similar statutes, regulations, or executive orders prohibiting or restricting licensed healthcare professionals from providing conversion therapy for minors.[2] *See* Exec. Order No. 2023-13 (Ariz. 2023); S.B. 1172 (Cal. 2012); H.B. 19-1129 (Colo. 2019); Substitute H.B. 6695 (Conn. 2017); S.B. 65 (Del. 2018); B20-0501 (D.C. 2014); S.B. 270 (Haw. 2018), H.B. 664 (Haw. 2019); H.B. 0217 (Ill. 2015); L.D. 1025 (Me. 2019); S.B. 1028 (Md. 2018); H.B. 140 (Mass. 2019); Third Engrossed H.F. 16 (Minn. 2023); S.B. 201 (Nev. 2017); H.B. 587 (N.H. 2018); Assemb. B. 3371 (N.J. 2013); S.B. 121 (N.M. 2017); S.B. 1046 (N.Y. 2019); Exec. Order No. 97 (N.C. 2019); N.D. Admin. Code §75.5-02.06.1; H.B. 2307 (Or. 2015); Exec. Order No. 2022-02 (Penn. 2022); Substitute H.B. 5277 (R.I. 2017); H.B. 228 (Utah 2023); S.B. 132 (Vt. 2016); H.B. 386 (Va. 2020); S.B. 5722 (Wash. 2018); Exec. Order No. 122 (Wis. 2021); and Wis. Admin. Code MPSW §20.02(25).

[2] These laws and orders are described in the Addendum.

States took these actions under their authority to regulate health professions to protect children and youth from a "treatment" that—as demonstrated by extensive evidence and the consensus view of leading medical professional organizations—is not therapeutic under established medical standards but, rather, poses a significant risk of harm. Such actions fall comfortably within states' authorities to regulate professions, protect children, and protect public health and welfare generally. *See Barsky v. Bd. of Regents of Univ. of State of N.Y.*, 347 U.S. 442, 451 (1954).

1. States considered ample evidence of the inefficacy and harms of conversion therapy in prohibiting it for youth

In enacting these laws, States relied on well-documented evidence demonstrating that conversion therapy for children and youth causes substantial mental and physical harms and is not an accepted medical practice. The overwhelming scientific and professional consensus is that conversion therapy is ineffective and harmful, and so should not be provided by licensed healthcare professionals as a form of treatment. This conclusion also applies to non-aversive, non-physical conversion therapy, which can cause serious harms including emotional trauma, depression, anxiety, suicidality, and self-hatred. *See* Am. Psych. Ass'n, *Report of the American Psychological Association Task Force on*

Appropriate Therapeutic Responses to Sexual Orientation (2009), https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf. Indeed, all major professional health associations have advocated against and repudiated the use of conversion therapy on minors because it is ineffective and increases the risk of suicidality and lifelong mental illness in its attempt to "cure" a person's sexuality or gender identity. *See Tingley*, 47 F.4th at 1064. Based on the extensive evidence and professional consensus that conversion therapy is ineffective and harmful, and therefore is not consistent with medical standards of care, many states have enacted laws or policies preventing it from being provided to youth by practitioners operating under the imprimatur of a state license.

California was the first state to enact legislation prohibiting licensed professionals from practicing conversion therapy on children and youth. In enacting Senate Bill 1172, the California legislature "relied on the well-documented, prevailing opinion of the medical and psychological community that [conversion therapy] has not been shown to be effective and that it creates a potential risk of serious harm to those who experience it." *Pickup v. Brown*, 740 F.3d 1208, 1223 (9th Cir. 2014)

(describing the passage of Senate Bill 1172), *abrogated in part by Nat'l Inst. of Fam. & Life Advocs. v. Becerra* (*NIFLA*), 585 U.S. 755 (2018). The legislature relied on extensive expert opinion that conversion therapy was neither effective nor safe, including position statements, articles, and reports from the American Psychological Association, the American Psychiatric Association, the American School Counselor Association, the American Academy of Pediatrics, the American Medical Association, the National Association of Social Workers, the American Counseling Association, the American Psychoanalytic Association, the American Academy of Child and Adolescent Psychiatry, and the Pan American Health Organization. *Id.* at 1224. Based on these materials, the legislature concluded that conversion therapy "can pose critical health risks to lesbian, gay, and bisexual people"; is "based on developmental theories whose scientific validity is questionable"; is "against fundamental principles of psychoanalytic treatment and often result[s] in substantial psychological pain by reinforcing damaging internalized attitudes"; and "lack[s] medical justification and represent[s] a serious threat to the health and well-being of affected people," among numerous other findings. 2012 Cal. Legis. Serv. ch. 835, §§1(b), (d), (j), and (l).

California also noted its "compelling interest in protecting the physical and psychological well-being of minors, including lesbian, gay, bisexual, and transgender youth, and in protecting its minors against exposure to serious harms caused by sexual orientation change efforts." *Id.* at §1(n).

New Jersey relied on a similar body of evidence when it enacted Assembly Bill A3371 just a year later. 2013 N.J. Sess. Law Serv. ch. 150; *King v. Governor of New Jersey*, 767 F.3d 216, 221-22 (3d Cir. 2014), *abrogated in part by NIFLA*, 585 U.S. 755. The New Jersey legislature similarly noted "numerous legislative findings" regarding the ineffectiveness and harmful impact of conversion therapy. *Id.* (discussing A3371). In hearings on the bill, legislators heard "horror stories" of conversion therapy, including from a woman who testified that she underwent electric shocks and was given drugs to induce vomiting at age 14 at a conversion therapy camp. Jim Melwert, *New Jersey Gov. Christie Signing Ban on 'Gay Conversion' Therapy*, CBS News, Aug. 19, 2013, https://www.cbsnews.com/philadelphia/news/new-jersey-gov-chris-christie-to-sign-ban-on-gay-conversion-therapy/. In signing the bill into law, then-Governor Chris Christie stated that "on issues of medical treatment for children we must look to experts in the field" and that the

"American Psychological Association has found that efforts to change sexual orientation can pose critical health risks including, but not limited to, depression, substance abuse, social withdrawal, decreased self-esteem and suicidal thoughts." *Governor's Statement Upon Signing Assembly Bill No. 3371* (Aug. 19, 2013), https://pub.njleg.state.nj.us/Bills/2012/A3500/3371_G1.PDF. Governor Christie concluded that "exposing children to these health risks without clear evidence of benefits that outweigh these serious risks is not appropriate." *Id.*

Washington's legislature likewise "considered evidence that demonstrated a 'scientifically credible proof of harm' to minors from conversion therapy." *Tingley*, 47 F.4th at 1078 (quoting *Pickup*, 740 F.3d at 1232). Washington legislators were aware of the "fair amount of evidence that conversion therapy is associated with negative health outcomes such as depression, self-stigma, cognitive and emotional dissonance, emotional distress, and negative self-image" and legislators "relied on the fact that 'every major medical and mental health organization' has uniformly rejected aversive and non-aversive conversion therapy as unsafe and inefficacious." *Id.* (citation modified).

By the time Michigan's legislature considered HB 4616 in 2023, the body of evidence had grown, further cementing the medical consensus that conversion therapy risks grave harms to children and teens. For example, in 2020, a peer-reviewed study found that conversion interventions performed on LGBT minors were associated with depression, suicidal thoughts, suicide attempts, less educational achievement, and lower weekly income. Caitlin Ryan, et al., *Parent-Initiated Sexual Orientation Change Efforts with LGBT Adolescents: Implications for Young Adult Mental Health and Adjustment*, 67 J. OF HOMOSEXUALITY 159 (2018), https://doi.org/10.1080/00918369.2018.1538407. That study found that lesbian, gay, and bisexual minors who had been subjected to conversion efforts had attempted suicide at a rate nearly three times higher than other lesbian, gay, and bisexual minors. *Id.* at 168. For transgender and gender-nonconforming youth, conversion therapy posed an even greater risk of harm; another peer-reviewed study found that more than 60% of transgender minors subjected to conversion therapy before age 10 attempted suicide. Jack L. Turban, et al., *Association Between Recalled Exposure to Gender Identity Conversion Efforts and Psychological Distress and Suicide Attempts Among*

Transgender Adults, 77 JAMA PSYCHIATRY 68, 74 (2020), doi:10.1001/jamapsychiatry.2019.2285.

And in March 2023, the U.S. Department of Health and Human Services emphatically stated that sexual orientation and gender identity "change efforts in children and adolescents are harmful and should *never* be provided." U.S Dep't of Health & Hum. Servs., Substance Abuse & Mental Health Servs. Admin., *Moving Beyond Change Efforts: Evidence and Action to Support and Affirm LGBTQI+ Youth* 8 (2023), https://www.govinfo.gov/app/details/GOVPUB-HE20-PURL-gpo195344 (emphasis added). Instead, effective therapeutic approaches provided by health professionals "support youth in identity exploration and development without seeking predetermined outcomes related to sexual orientation, gender identity, or gender expression." *Id.* at 51.

B. The First Amendment Does Not Exempt Mental Health Professionals from Following Standards of Care

Appellants maintain that the First Amendment right to free speech allows them to engage in a dangerous practice that harms minors simply because that practice is implemented with words. Not so. Though the practice of medicine often requires spoken or written word, prohibiting a particular practice from being provided as a treatment by licensed

healthcare professionals does not violate the right to free speech. A decision to the contrary would allow mental health professionals to circumvent the professional standard of care and limit states' powers to regulate licensed professionals. *Tingley*, 47 F.4th at 1077-78.

1. States have broad authority to regulate professional conduct consistent with the First Amendment

States bear a special responsibility for maintaining standards among licensed professionals in order to protect the public from substandard care. *See Williamson v. Lee Optical of Okla., Inc.*, 348 U.S. 483 (1955). It is well-settled that "[l]ongstanding torts for professional malpractice . . . 'fall within the traditional purview of state regulation of professional conduct[]'" without running afoul of the First Amendment. *NIFLA*, 585 U.S. at 769 (quoting *NAACP v. Button*, 371 U.S. 415, 438 (1963)). Likewise, "'it has never been deemed an abridgement of freedom of speech or press to make a course of conduct illegal merely because the conduct was in part initiated, evidenced, or carried out by means of language . . . .'" *Ohralik v. Ohio State Bar Ass'n*, 436 U.S. 447, 456 (1978). Thus, the Supreme Court has approved of regulations preventing attorneys from soliciting new clients in-person, *id.* at 457-58, and professional malpractice laws, *NAACP*, 371 U.S. at 438.

These principles extend to the doctor-patient relationship and counselor-client relationship. "Most, if not all, medical and mental health treatments require speech, but that fact does not give rise to a First Amendment claim when the state bans a particular treatment." *Pickup*, 740 F.3d at 1229. Accordingly, states may lawfully regulate professional conduct by health care providers, even if it incidentally impacts their speech. The Supreme Court has approved, for example, state informed consent laws that required speech specific to abortions. *Planned Parenthood of Se. Penn. v. Casey*, 505 U.S. 833, 884 (1992), *overruled on other grounds by Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022). The Supreme Court in *NIFLA* re-emphasized that regulations facilitating informed consent to medical treatments are permissible. 585 U.S. at 769-70; *see also id.* at 768 ("States may regulate professional conduct, even though that conduct incidentally involves speech."). It follows that the First Amendment does not deprive the states of authority to regulate the medical treatment itself, so long as states otherwise act within our Constitution's constraints, including due process and equal protection of the laws.

2. Courts have upheld state regulations of medical practices against First Amendment challenges

This Court and courts around the country have had several occasions to uphold laws regulating medical practice in the face of First Amendment challenges.

This Court concluded that states may lawfully regulate professional conduct without running afoul of the First Amendment, even if that regulation incidentally impacts speech. In *EMW Women's Surgical Center, P.S.C. v. Beshear*, this Court upheld a state law requiring that abortion providers perform ultrasounds, and then display and explain the ultrasound images to patients before abortion procedures, as a lawful regulation of medical practice with incidental impact on speech. 920 F.3d 421, 424, 429-32 (6th Cir. 2019). Even though the statute required doctors to speak on a particular topic, this Court relied on *NIFLA* to explain that this type of regulation fell "on the conduct side of the line" because it "regulate[s] speech 'only "as part of the *practice* of medicine, subject to reasonable licensing and regulation by the State."'" *Id.* (citation omitted).

In *National Association for the Advancement of Psychoanalysis v. California Board of Psychology* (*NAAP*), the Ninth Circuit concluded that

a state law that required health practitioners to have certain training to practice within the state did not run afoul of the First Amendment. *NAAP*, 228 F.3d 1043, 1054 (9th Cir. 2000). The court reasoned that because the key component of psychoanalysis is "'the treatment of emotional suffering and depression, *not* speech[,]'" the challenged licensing regulations were related to conduct, not speech. *Id.* The court further concluded that "[i]t is properly within the state's police power to regulate and license professions, especially when public health concerns are affected." *Id.* The court specifically noted that "the state may have an interest in shielding the public from the untrustworthy, the incompetent, or the irresponsible, or against unauthorized representation of agency." *Id.* (quoting *Thomas v. Collins*, 323 U.S. 516, 544 (1945)); *see also Conant v. Walters*, 309 F.3d 629, 634-37 (9th Cir. 2002) (distinguishing between laws prohibiting doctors from treating patients with marijuana—conduct the government could regulate—from prohibiting doctors from simply speaking about or recommending marijuana outside of the provision of treatment—speech the government could not regulate).

And in *Pickup* and *Tingley*, the Ninth Circuit upheld California and Washington laws materially similar to HB 4616 challenged here. The

Ninth Circuit reasoned that laws prohibiting licensed professionals from practicing conversion therapy on minors regulated professional conduct and had only an incidental impact on speech. *Pickup*, 740 F.3d at 1227-29. The court concluded that mental health counselors and therapists are not entitled to special First Amendment protections merely because their practice involves the spoken word. *See Tingley*, 47 F.4th at 1077.

Finally, the Eleventh Circuit in *Del Castillo v. Secretary, Florida Department of Health*, applied *NIFLA* and upheld a state law requiring licensure of dieticians against a free speech challenge as a regulation of professional conduct, although the dietician's practice involved communication of nutrition and diet advice via spoken word. 26 F.4th 1214, 1216 (11th Cir. 2022).

3. Michigan's law is a lawful regulation of professional conduct

Michigan's HB 4616 is a lawful regulation of professional conduct that is rationally related to a legitimate government interest.

Michigan's law targets conduct that only incidentally impacts speech. Amici States agree with Appellants that a state cannot relabel disfavored speech as conduct in order to make an end-run around the First Amendment. But health care—including mental health treatment

like talk therapy—necessarily involves the use of speech and the verbal exchange of words as part of treatment. *See Tingley*, 47 F.4th at 1082 ("What licensed mental health providers do during their appointments with patients for compensation under the authority of a state license is treatment."); *Chiles v. Salazar*, 116 F.4th 1178, 1208 (10th Cir. 2024), *cert. granted*, No. 24-539, 145 S. Ct. 1328 (U.S. Mar. 10, 2025) (explaining Colorado's parallel law "prohibits a particular mental health treatment provided by a healthcare professional to her minor patients"). In other words, the use of words as a course of treatment does not automatically trigger heightened First Amendment scrutiny. *See Casey*, 505 U.S. at 884 ("To be sure, the physician's First Amendment rights not to speak are implicated [by an informed consent statute] . . . but only as part of the practice of medicine, subject to reasonable licensing and regulation by the State[.]" (citation omitted)).

Michigan's law generally regulates the practices of mental health practitioners like therapists, counselors, and psychologists to ensure that they abide by professional standards of care. *See, e.g.*, Mich. Comp. Laws §§330.1901 (stating that no mental health practitioner is authorized to practice outside of their area of training); 333.16221 (detailing prohibited

activities that fall outside the standards of professional practice). HB 4616 is just one part of this scheme, making it unprofessional conduct for mental health professionals to engage in conversion therapy with a minor patient. Mich. Comp. Laws §§330.1100a(20) (defining "conversion therapy"); 330.1901a (prohibiting mental health professionals from engaging in conversion therapy with their minor clients). HB 4616 does not prevent mental health care providers from communicating with the public about conversion therapy or expressing their personal views to minor patients about conversion therapy, sexual orientation, or gender identity. Rather, it restricts only professional conduct that consists of practicing conversion therapy on minors, and thus only incidentally impacts speech. *See Ohralik*, 436 U.S. at 456; *Tingley*, 47 F.4th at 1077.

Cases outside of the medical practice realm are not to the contrary. *Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010), for example, examined a federal statute that prohibited providing material support, including "expert advice or assistance," to designated terrorist organizations. The Court held that although the statute at issue "may be described as directed at conduct," strict scrutiny applied as to the plaintiffs because "the conduct triggering coverage under the statute

consist[ed] of communicating a message." *Id*. at 28. This holding does not support Appellants' challenge to Michigan's law or otherwise invalidate state regulation of health care practices, because such treatments are not plausibly described as "communicating a message." They are instead a form of *conduct*—a practice that attempts to alter the state of the patient's mental health, and has consistently been found to be dangerous and ineffective. Such psychotherapeutic practices are properly subject to state regulation even though they may be "'carried out by means of language.'" *See Ohralik*, 436 U.S. at 456 (citation omitted). While strict scrutiny might apply if a state attempted to prohibit a mental health counselor from "communicating a message" outside of a therapy session, such as expressing the counselor's personal views on conversion therapy, HB 4616 explicitly does *not* impose any such restriction. *See* Mich. Comp. Laws §330.1100a(20) (defining what conversion therapy is and is not).

Applying the long-settled standard for regulating professional conduct, Michigan's statute is lawful because it regulates professional conduct that only incidentally impacts speech and is rational. Michigan's law is rationally related to the legitimate government interest of protecting the mental and physical health of children and youth and in

regulating the mental health profession. The medical consensus is that conversion therapy is neither effective nor safe for the treatment of any mental health condition and should never be used on minors. The decision to codify the standard of care and ensure that licensed healthcare professionals are not providing a treatment that falls below standards of care and actively causes harm is rationally related to the legitimate interest of protecting the health and safety of patients. *See Tingley*, 47 F.4th at 1077-79; *Chiles*, 116 F.4th at 1220-21.

Under Appellants' view, acts of unprofessional conduct—like the practice of conversion therapy—should always be subject to the highest level of constitutional protection merely because the professional uses words. But this would severely hinder states' ability to regulate professionals whose treatments involve words. This Court should reject such an extreme and harmful conclusion.

C. States Have a Long and Recognized History of Regulating Health Care Provider Conduct

As discussed above, in *NIFLA*, the Supreme Court reaffirmed that laws that regulate speech "'as part of the *practice* of medicine'" are lawful. 585 U.S. at 770 (quoting *Casey*, 505 U.S. at 884). The Court specifically noted that "longstanding" historical practices supported this

conclusion, including informed consent laws and torts for professional malpractice. *Id.* at 769. The Court explained that while its precedents do not support a free-floating exemption for any and all regulation of professional speech, the Court considers whether a particular law falls within such a "tradition" of regulation. *See id.* at 768-69; *Tingley*, 47 F.4th at 1080 ("There is a long (if heretofore unrecognized) tradition of regulation governing the practice of those who provide health care within state borders." (applying standard derived from *NIFLA*, 585 U.S. at 767)).

States that restrict the practice of conversion therapy by licensed professionals on children do so in accordance with their power to regulate medical practice; to enforce professional standards; and to protect their residents from harm, fraud, discrimination, and abuse. "From time immemorial," states have exercised this power to protect public health and safety and to enact standards for obtaining and maintaining a professional license, without running afoul of the Constitution. *Dent v. West Virginia*, 129 U.S. 114, 122 (1889). Regulation of conduct that affects public health is a core area of traditional state concern. *See Gonzales v. Oregon*, 546 U.S. 243, 270-71 (2006); *Watson v. Maryland*, 218 U.S. 173, 176 (1910) (explaining that "[i]t is too well settled to require

discussion at this day that the police power of the states extends to the regulation of certain trades and callings, particularly those which closely concern the public health[,]" and acknowledging that "[t]here is perhaps no profession more properly open to such regulation than that which embraces the practitioners of medicine[]").

Michigan's HB 4616 is part of a long tradition of states regulating the professional practice of medicine consistent with the First Amendment.

D. Appellants' Position that Health Care Treatment Modalities Using Speech Are Not Conduct-Based Would Lead to Dangerous Outcomes

States do not lose their power to regulate medical treatments "merely because those treatments are implemented through speech rather than through scalpel." *Tingley*, 47 F.4th at 1064. Accepting and upholding Appellants' position that talk therapy cannot be regulated as a health care practice and is instead speech—the regulation of which must survive strict scrutiny—risks significantly deregulating this form of health care in practical effect, leaving children and adults unprotected from treatments that violate generally accepted standards of care.

1. State determinations that conversion therapy practiced on minors falls below the standard of care for health care providers comport with state disciplinary processes

Traditionally, state governments have exercised their power to regulate health care providers by setting minimum educational and professional standards for licensing. *Barsky*, 347 U.S. at 451 ("[P]ractice is a privilege granted by the State under its substantially plenary power to fix the terms of admission."). States legislate the scope of practice and minimum "standard of care" for the professions and investigate and discipline providers whose practice falls outside the scope of their profession or below the standard of care. *See* Mich. Comp. Laws §§333.18101 (defining scope of practice for counselors); 333.18201 (defining scope of practice for psychologists); 333.18251 (defining scope of practice for applied behavior analysts). HB 4616 easily fits within this paradigm.

States may also discipline licensed professionals operating within their borders for engaging in conduct that is unprofessional, unethical, improper, or incompetent or that violate their general duty of care, as well as for specific forms of misconduct such as sexual misconduct, discrimination, fraud or misrepresentation, conviction of a crime related

to the profession, or betrayal of the practitioner-patient privilege. *E.g.*, Mich. Comp. Laws §333.16221 (disciplinary grounds for health professionals). States may also discipline a health care provider for professional conduct that is incompetent, negligent, or rises to a level of malpractice that violates the standards for the profession. *E.g.*, *id.* §333.16221(a) (health professionals subject to discipline for any practice that "impair[s] the ability to safely and skillfully engage in the practice of the health profession.").

Based on the consensus view of established medical organizations, over twenty-five states have codified the conclusion that the practice of conversion therapy on minors *always* falls below the standard of care for the mental health professions. This determination is based on voluminous studies demonstrating the practice's harms to children and the consensus of all leading medical and mental health organizations that conversion therapy should not be conducted on children. Accordingly, state professional boards may discipline providers for using conversion therapy on minors under states' general laws requiring providers to adhere to the standard of care, even in the absence of a specific law prohibiting this practice. *See, e.g.*, Ohio Board of Psychology,

Conversion Therapy Advisory (Apr. 14, 2016) https://psychology.ohio.gov/laws-rules-resources/advisories-resources/conversion-therapy-advisory. But by specifically identifying conversion therapy for children as a specific form of treatment that falls below the standard of care for mental health professions, states provide notice and clarity to practitioners that this treatment is against the law and increase efficiency for the state licensing disciplinary process.

Clear protections for minors are particularly important in the context of counseling, where children and youth often lack the degree of agency that adults have. The vast majority of children's counseling is initiated by parents or caregivers, with a counselor selected by the parent or caregiver. Anna M. de Haan et al., *A meta-analytic review on treatment dropout in child and adolescent outpatient mental health care*, 33 CLINICAL PSYCH. REV. 698 (2013), https://doi.org/10.1016/j.cpr.2013.04.005. Youth may or may not have the right to consent to this care. Given the significant risk that a child could be placed into conversion therapy without their consent, and the documented risks of harm such treatment poses, states' decisions to prohibit conversion therapy for state-licensed professionals are of the utmost importance.

Appellants' arguments misunderstand the scope of the role of a counselor and the responsibilities that accompany the privilege of being a state-licensed mental health practitioner. The regulation of health professions like Appellants' therapy practice takes place in a context where there is a desired outcome in treating the patient for the patient's benefit, and where the speech that occurs is already limited to that which supports this purpose. Michigan law defines psychotherapy to include the "diagnosis and treatment planning for mental and emotional disorders, and evaluation." Mich. Comp. Laws §333.18101(a)(i). Likewise, the "practice of counseling" is defined as "a service involving clinical counseling principles, methods, or procedures for the purpose of achieving social, personal, career, and emotional development and with the goal of promoting and enhancing healthy self-actualizing and satisfying lifestyles . . . ." *Id.* §333.18101(d). In order to lawfully practice, one must have a license from the state and comply with certain training and education requirements. *See, e.g.*, *id.* §§333.18107 (minimum qualifications for licensure as licensed professional counselor); 333.18114 (relicensure procedure). Michigan's law—like those upheld in California, Colorado, and Washington—is thus limited only to licensed practitioners'

conduct, and even then only to conduct that seeks to change a child's sexual orientation or gender identity. Medical and mental health practices like those engaged in by Appellants are concerned with the treatment of a condition or disorder. Laws prohibiting conversion therapy for minors as practiced by licensed professionals are a lawful extension of a state's duty to regulate professions to protect the public.

2. Accepting Appellants' argument would endanger the public by hindering states' ability to discipline professionals for providing treatment that falls below the standard of care

Appellants' position that talk therapy is speech that should be afforded the highest levels of constitutional protection is legally wrong, for the reasons set forth above. It also carries significant risks. "[P]sychotherapists are not entitled to special First Amendment protection merely because the mechanism used to deliver mental health treatment is the spoken word[.]" *Pickup*, 740 F.3d at 1227. To hold otherwise would "make talk therapy virtually 'immune from regulation.'" *Id.* at 1231 (quoting *NAAP*, 228 F.3d at 1054). Further, Appellants' position is even more sweeping because they would apply strict scrutiny to state efforts to regulate any statements by health care providers, no

matter how unrelated to the provision of evidence-based health care or how harmful to patients.

Examples of states' lawful regulation of harmful speech-related health care provider conduct abound. For example, in Colorado, the State Board of Psychologist Examiners revoked a psychologist's license for disclosing confidential information about his patients to a third party and soliciting loans from patients. *Davis v. State Bd. of Psych. Exam'rs*, 791 P.2d 1198 (Colo. App. 1989). These acts were undoubtedly carried out through speech and would presumably be protected from disciplinary action under Appellants' argument. In Ohio, the State Board of Psychology revoked a psychologist's license for, among other things, making seductive statements to a patient, misrepresenting the professional qualifications of a colleague, and breaching the confidentiality of a client by discussing her health issues with another client. *Althof v. Ohio State Bd. of Psych.*, No. 05AP-1169, 2007 WL 701572 (Ohio Ct. App. Mar. 8, 2007) (unpublished). In Washington, the Medical Commission has disciplined a psychiatrist for violating the standard of care for his profession, where he "deviated from . . . traditional psychotherapy" and failed to maintain an appropriate doctor-client

relationship by encouraging his minor patient's "unhelpful dependency" on the psychiatrist and communicating with the patient's parents in a way that alienated family members from each other. *Huffine v. Wash. Dep't of Health Med. Quality Assurance Comm'n*, 148 Wash. App. 1015 (2009) (unpublished). Under Appellants' framing, the state's authority to regulate a provider's conversations with the minor and their parents that fall below the standard of care for the profession would be subject to strict scrutiny.

In Appellants' view, medical professionals can cloak themselves in First Amendment protection based on the notion that their medical practice merely entails "conversations." *See, e.g.*, Opening Br. at 21, 31, 36. Yet "doctors are routinely held liable for giving negligent medical advice to their patients, without serious suggestion that the First Amendment protects their right to give advice that is not consistent with the accepted standard of care." *Pickup*, 740 F.3d at 1228. Appellants' position, unsupported by precedent and state practice, would undermine many regulations on the practice of medicine where speech is part of the treatment. It could leave doctors, psychologists, and counselors who

perpetuate substandard care unchecked and state residents at risk of serious harms.

3. Appellants' reliance on *Otto* is misplaced

The Eleventh Circuit stands alone in enjoining two local conversion therapy ordinances as content-based regulations that do not survive strict scrutiny. *See Otto v. City of Boca Raton*, 981 F.3d 854 (11th Cir. 2020).[3] There are crucial distinctions between Michigan's law and the ordinances in *Otto*. *Otto* involved local ordinances that threatened fines for therapists who practiced conversion therapy on minors that were entirely untethered from the state's system for licensing healthcare practitioners. This lack of connection to any professional licensing scheme played a key role in the Eleventh Circuit's decision, with the court emphasizing that the ordinances were "not connected to any regulation of separately identifiable conduct[,]" *id.* at 865, so striking them down, in the court's view, did not threaten "'[l]ongstanding torts for professional

[3] Every court to consider a state law restricting conversion therapy as part of professional licensing regulations has upheld the law. *See Chiles*, 116 F.4th 1178; *Tingley*, 47 F.4th 1055; *Doyle v. Hogan*, 411 F. Supp. 3d 337 (D. Md. 2019), *vacated on immunity grounds*, 1 F.4th 249 (4th Cir. 2021); *Welch v. Brown*, 834 F.3d 1041 (9th Cir. 2016); *Doe ex rel. Doe v. Governor of New Jersey*, 783 F.3d 150 (3d Cir. 2015); *King*, 767 F.3d 216; *Pickup*, 740 F.3d 1208.

malpractice' or other state-law penalties for bad acts[.]" *Id.* at 870 (first alteration in original).

In any event, *Otto*'s reasoning should be rejected as unpersuasive. The decision failed to adequately address how children can be protected from treatments that are deeply harmful, ineffective, and repudiated by all leading medical and mental health organizations. The *Otto* panel proffered that the framing of talk therapy treatment as pure speech, with the associated First Amendment protections, "does not stand in the way of 'longstanding torts for professional malpractice' or other state-law penalties for bad acts that produce actual harm." *Id.* (citation modified). Rather, the court noted that "[p]eople who actually hurt children can be held accountable[.]" *Id.* At base, *Otto* stands for the dubious proposition that the government may not *prevent* injury to children from practices that have been widely recognized as harmful and may only discipline a provider *after* they cause the expected harm. But the law does not require states to wait for harm to occur before they may regulate professional practice and conduct. *See Ohralik*, 436 U.S. at 464 (professional regulation prohibiting client solicitation was a permissible "prophylactic measure[] whose objective is the prevention of harm before it occurs[]");

id. ("[T]he State has a strong interest in adopting and enforcing rules of conduct designed to protect the public from harmful [professional practices] by [professionals] whom it has licensed."). Nor does the *Otto* opinion explain how state professional boards should discipline a mental health provider for malpractice (or what the Eleventh Circuit has defined as speech protected by the First Amendment). *Otto* contradicts the state's responsibility to protect its people from practice below the standard of care and should not be followed by this Court.

Such a position is also unworkable as a practical matter, and the Eleventh Circuit has not applied *Otto* to other professional regulations that impact speech. For example, in *Del Castillo*, the Eleventh Circuit considered *NIFLA* and held that an unlicensed dietician and nutritionist's practice was subject to state licensing because the effect on her speech was "incidental" even though her work mostly consisted of communicating her opinions and advice on diet and nutrition to clients. 26 F.4th at 1216. The court considered that a licensed dietician's scope of practice includes "conducting nutrition research, developing a nutrition care system, and integrating information from a nutrition assessment[,]" ultimately concluding that a dietician's practice is not speech and

regulation of the profession was "incidental . . . [to] protected speech." *Id.* at 1225-26.

Under this framework, there is no sound reason that a mental health counselor should be treated any differently than a nutritionist. Both engage in similar types of activities (like setting treatment goals, researching treatment options, and documenting treatment notes) that may lawfully be regulated as professional conduct even if the regulation incidentally impacts speech. Given the lack of internal consistency in the *Otto* decision and its incompatibility with historical regulation of professional practice, this Court should decline to follow *Otto*'s reasoning.

Finally, Appellants' argument that HB 4616 is viewpoint discriminatory—taken from the *Otto* opinion—is flawed. Counseling is not directed toward the outward expression of ideas. The regulation of health professions takes place in a context where there is a desired health *outcome*—behavioral or physical—in treating the patient, for the patient's benefit, and where providers must engage in evidence-based practices in order to achieve this end. In that context, a state-licensed professional acts with the authority of a state license, which indicates knowledge of and adherence to such evidence-based practices, and acts

"to advance the welfare of the clients, rather than to contribute to public debate." *Pickup*, 740 F.3d at 1228; *cf. Lowe v. SEC*, 472 U.S. 181, 232 (1985) (White, J., concurring) ("One who takes the affairs of a client personally in hand and purports to exercise judgment on behalf of the client in the light of the client's individual needs and circumstances is properly viewed as engaging in the practice of a profession.").

IV. CONCLUSION

This Court should affirm.

RESPECTFULLY SUBMITTED this 3rd day of June 2025.

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the type-volume limitation in Fed. R. App. P. 29(a)(5) and 32(a)(7)(B) because it contains 6,499 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f) and 6th Cir. R. 32(b)(1).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface, Century Schoolbook, in 14-point font, using Microsoft Word.

Date: June 3, 2025 *s/ Cristina Sepe*
CRISTINA SEPE

CERTIFICATE OF SERVICE

I certify an electronic copy of the foregoing was filed with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the CM/ECF system. I also certify that service of the foregoing on registered users will be accomplished by the CM/ECF system.

Date: June 3, 2025 *s/ Cristina Sepe*
CRISTINA SEPE

ADDENDUM

Jurisdiction	Citation	Description
Arizona	Exec. Order by Gov. Katie Hobbs, No. 2023-13 (Ariz. 2023)	Executive order prohibiting use of state and federal funds for conversion therapy for minors
California	S.B. 1172, 2011-12 Leg., Reg. Sess. (Cal. 2012)	Statute prohibiting conversion therapy for minors
Colorado	H.B. 19-1129, 72nd Gen. Assemb., 1st Reg. Sess. (Colo. 2019)	Statute prohibiting conversion therapy for minors
Connecticut	Sub. H.B. 6695, 2017 Gen. Assemb., Reg. Sess. (Conn. 2017)	Statute prohibiting conversion therapy for minors
Delaware	S.B. 65, 149th Gen. Assemb., Reg. Sess. (Del. 2018)	Statute prohibiting conversion therapy for minors
District of Columbia	B20-0501, 20th Council, Reg. Sess. (D.C. 2014)	Statute prohibiting conversion therapy for minors
Hawai‘i	S.B. 270, 29th Leg., Reg. Sess. (Haw. 2018) H.B. 664, 30th Leg., Reg. Sess. (Haw. 2019)	Statute prohibiting conversion therapy for minors
Illinois	H.B. 0217, 99th Gen. Assemb., Reg. Sess. (Ill. 2015)	Statute prohibiting conversion therapy for minors
Maine	L.D. 1025, 129th Leg., 1st Reg. Sess. (Me. 2019)	Statute prohibiting conversion therapy for minors
Maryland	S.B. 1028, 438th Gen. Assemb., Reg. Sess. (Md. 2018)	Statute prohibiting conversion therapy for minors

Jurisdiction	Citation	Description
Massachusetts	H.140, 191st Leg., Reg. Sess. (Mass. 2019)	Statute prohibiting conversion therapy for minors
Michigan	H.B. 4616, H.B. 4617, 102nd Leg., Reg. Sess. (Mich. 2023)	Statute prohibiting conversion therapy for minors
Minnesota	Third Eng. H.F.16, 93rd Leg., Reg. Sess. (Minn. 2023)	Statute prohibiting conversion therapy for minors
Nevada	S.B. 201, 79th Leg., Reg. Sess. (Nev. 2017)	Statute prohibiting conversion therapy for minors
New Hampshire	H.B. 587-FN, 165th Gen. Ct. Reg. Sess. (N.H. 2018)	Statute prohibiting conversion therapy for minors
New Jersey	A.B. 3371, 216th Leg., 1st Ann. Sess. (N.J. 2013)	Statute prohibiting conversion therapy for minors
New Mexico	S.B. 121, 53rd Leg., 1st Sess. (N.M. 2017)	Statute prohibiting conversion therapy for minors
New York	S.B. 1046, 242nd Leg., Reg. Sess. (N.Y. 2019)	Statute prohibiting conversion therapy for minors
North Carolina	Exec. Order by Gov. Roy Cooper, No. 97 (N.C. 2019)	Executive order prohibiting use of state and federal funds for conversion therapy for minors
North Dakota	N.D. Admin Code. § 75.5-02-06.1 (2021)	Ethics regulation prohibiting licensed social workers from practicing conversion therapy
Oregon	H.B. 2307, 78th Leg., Reg. Sess. (Or. 2015)	Statute prohibiting conversion therapy for minors

Jurisdiction	Citation	Description
Pennsylvania	Exec. Order by Gov. Tim Wolf, No. 2022-02 (Penn. 2022); State Board Statements of Policy[4]	Executive order restricting conversion therapy for minors Board policies prohibiting conversion therapy for minors
Rhode Island	Substitute H.B. 5277A, Gen. Assemb., Reg. Sess. (R.I. 2017)	Statute prohibiting conversion therapy for minors
Utah	H.B. 228, 65th Leg., Reg. Sess. (Utah 2023)	Statute prohibiting conversion therapy for minors
Vermont	S. 132, 2015–16 Leg., Reg. Sess. (Vt. 2016)	Statute prohibiting conversion therapy for minors
Virginia	H.B. 386, 2020 Gen. Assemb., Reg. Sess. (Va. 2020)	Statute prohibiting conversion therapy for minors
Washington	S.B. 5722. 65th Leg., Reg. Sess. (Wash. 2018)	Statute prohibiting conversion therapy for minors

[4] Pennsylvania State Boards of Medicine; Nursing; Social Workers, Marriage and Family Therapists, and Professional Counselors; Psychology; and Osteopathic Medicine have adopted Statements of Policy opposing the use of conversion therapy on minors in Pennsylvania. *See* Commonwealth of Pennsylvania, *Shapiro Administration Announces Five State Boards Have Adopted New Policies Making Clear That Conversion Therapy on LGBTQ+ Minors is Harmful and Unprofessional* (May 2, 2024), https://www.pa.gov/en/governor/newsroom/2024-press-releases/shapiro-administration-announces-five-state-boards-have-adopted-.html.

Jurisdiction	Citation	Description
Wisconsin	Exec. Order by Gov. Tony Evers, No. 122 (Wis. 2021)	Executive order prohibiting use of state and federal funds for conversion therapy for minors
	Wis. Admin. Code MPSW § 20.02(25) (2024)	Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board licensing rule prohibiting conversion therapy