



March 1, 2022

Members of the Preventive Health Policy Division
State Office Building
100 Rev. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Dear Members,

True North Legal is a non-profit legal organization that advocates for life, family, and religious freedom on behalf of all Minnesotans. We offer the following high-level analysis regarding significant legal and policy concerns relating to HF 2156.

“Conversion Therapy Ban” proposals prohibiting licensed mental health professionals in the state from practicing so-called conversion therapy raise significant legal and policy concerns relating to medical access for all Minnesotans. These bans are unnecessary, unconstitutional, and cause more harm than the good these bills propose to remedy.

The plain language of the bill leaves no question that the intent is not to ban egregious therapy practices associated with conversion therapy—such as electric shock therapy, nausea-inducing drugs, and castration—as such legislation would have already passed with bipartisan support. Rather, so-called conversion therapy ban bills are an attempt to silence those who disagree with the authors (and interest groups) drafting these bills by banning talk therapy, also referred to as SOCE (Sexual Orientation Change Efforts) or reparative therapy.

HF 2156 is arguably unconstitutional and would invite legal challenges if passed. As recently as November, 2020, a federal appellate court struck down a ban narrower than Minnesota’s proposed language as an infringement on constitutionally protected free speech under the First Amendment¹. Further, the United States Supreme Court signaled its position on these bans in *National Institute of Family and Life Advocates (NIFLA) v. Becerra*.² Consequentially, so-called conversion therapy bans as introduced in Minnesota present the same constitutional infirmities, as such legislation: 1) censors constitutionally protected speech of licensed counselors, clients, and many others, based on content and viewpoint; 2) is impermissibly vague and entirely subjective; 3) infringes on the free exercise of religion; 4) strips parents of constitutionally protected rights; 5) extends its reach over the choices of otherwise competent adults in its application to vulnerable adults; and 6) impermissibly regulates speech under the guise of regulatory conduct.

So-called “conversion therapy bans” seek to provide the government with impermissible censorship over a broad range of legally protected activities while threatening violators with severe consequences. Even worse, these bans prohibit minors and vulnerable adults from accessing critical care, based on self-selected counseling goals. Any legislative body that votes to strip mental health care from individuals desiring to reconcile their hearts and minds with their biological sex sends a clear message—in Minnesota, you don’t matter. We find no reason for supporting so-called conversion therapy legislation or any related amendments, as there is no way to justify legislation that not only seeks to ban speech and medical access to individuals across the state, but would also invite costly legal challenges.

Sincerely,

Renee K. Carlson
General Counsel, True North Legal

¹ In holding Boca Raton’s conversion therapy ban ordinance unconstitutional the court reasoned in *Otto v. City of Boca Raton*, 981 F.3d 854, 864 (11th Cir. 2020) (“...what good would it do for a therapist whose client sought SOCE therapy to tell the client that she thought the therapy could be helpful, but could not offer it? It only matters that some words about sexuality and gender are allowed, and others are not...”).

² *Nat’l Inst. of Fam. & Life Advocs. v. Becerra*, 138 S. Ct. 2361, 2371 (2018).