

SENATE BILL NO. 201—SENATORS PARKS, RATTI, FORD, ATKINSON,
SPEARMAN; CANCELA, CANNIZZARO, DENIS, FARLEY,
MANENDO, SEGERBLOM AND WOODHOUSE

FEBRUARY 22, 2017

JOINT SPONSORS: ASSEMBLYMEN ARAUJO, CARRILLO, CARLTON,
NEAL, COHEN; BROOKS, FLORES, KRASNER,
OHRENSCHALL, SWANK, THOMPSON AND YEAGER

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Enacts provisions relating to conversion therapies.
(BDR 54-301)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to health care professionals; prohibiting certain health care professionals from providing sexual orientation or gender identity conversion therapy to a minor; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the Legislature has the power to regulate licensed health
2 care professionals for the benefit of the public’s health, safety and welfare and to
3 protect the well-being of patients from ineffective or harmful professional services.
4 (*Dent v. West Virginia*, 129 U.S. 114, 122-23 (1889); *Hawker v. New York*, 170
5 U.S. 189, 191-95 (1898); *State ex rel. Kassabian v. State Bd. of Med. Exam’rs*, 68
6 Nev. 455, 463-65 (1951)) In exercising that power, the Legislature has enacted
7 existing laws that regulate homeopathic physicians, advanced practitioners of
8 homeopathy, homeopathic assistants and certain mental health professionals
9 including psychiatrists, psychologists, licensed marriage and family therapists,
10 certain registered nurses and certain licensed clinical or independent social workers.
11 (Chapters 630, 630A, 632, 633 and 641-641B of NRS)

12 The purpose of this bill is to protect the well-being of children who are under
13 18 years of age by prohibiting such licensed health care professionals from
14 providing children with conversion therapies, which are any practices or treatments
15 that seek to change the sexual orientation or gender identity of the children. In
16 **section 1** of this bill, the Legislature finds and declares that there is a legitimate and



17 compelling need to protect the well-being of children from the harmful and
18 destructive effects of conversion therapies because such therapies have not been
19 proven to be medically or clinically effective but have been shown to have a high
20 potential to cause substantial harm to the physical and psychological well-being of
21 children who are much more vulnerable to the potentially traumatic effects of such
22 intensive conversion therapies.

23 To carry out the Legislature's objectives, **section 1.5** of this bill prohibits
24 homeopathic physicians, advanced practitioners of homeopathy, homeopathic
25 assistants and certain mental health professionals from providing sexual orientation
26 or gender identity conversion therapies to children who are under 18 years of age.
27 However, there is nothing in this bill that regulates or prohibits licensed health care
28 professionals from engaging in expressive speech or religious counseling with such
29 children if the licensed health care professionals: (1) are acting in their pastoral or
30 religious capacity as members of the clergy or as religious counselors; and (2) do
31 not hold themselves out as operating pursuant to their professional licenses when so
32 acting in their pastoral or religious capacity.

33 This bill is modeled on similar laws enacted in California and New Jersey. (Cal.
34 Bus. & Prof. Code §§ 865 et seq.; N.J. Stat. Ann. §§ 45:1-54 et seq.) In interpreting
35 those laws, courts have determined that the laws do not regulate or prohibit licensed
36 health care professionals from engaging in expressive speech or religious
37 counseling with children who are under 18 years of age if the licensed health care
38 professionals: (1) are acting in their pastoral or religious capacity as members of the
39 clergy or as religious counselors; and (2) do not hold themselves out as operating
40 pursuant to their professional licenses when so acting in their pastoral or religious
41 capacity. In addition, courts have also held that the laws: (1) are a constitutional
42 exercise of the legislative power to regulate licensed health care professionals for
43 the benefit of the public's health, safety and welfare and to protect the well-being of
44 children from ineffective or harmful professional services; (2) do not violate any
45 rights to freedom of speech, association or religion and are not unconstitutionally
46 overbroad or vague under the First and Fourteenth Amendments to the United
47 States Constitution; and (3) do not violate any other fundamental or substantive due
48 process rights of licensed health care professionals or the parents or children who
49 seek their professional services. (*Pickup v. Brown*, 740 F.3d 1208 (9th Cir. 2014),
50 *cert. denied*, 134 S.Ct. 2871 and 2881 (2014); *Welch v. Brown*, 834 F.3d 1041 (9th
51 Cir. 2016), *cert. denied*, No. 16-845, --- S.Ct. --- (May 1, 2017); *King v. Governor*
52 *of New Jersey*, 767 F.3d 216 (3d Cir. 2014), *cert. denied*, 135 S.Ct. 2048 (2015);
53 *Doe v. Governor of New Jersey*, 783 F.3d 150 (3d Cir. 2015), *cert. denied*, 136
54 S.Ct. 1155 (2016))

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

1 **Section 1.** 1. The Legislature hereby finds that:

2 (a) For the past several decades, there has been a growing
3 consensus among medical and mental health professionals that
4 conversion therapies, which involve any practices or treatments that
5 seek to change the sexual orientation or gender identity of a patient,
6 also known as reparative therapies or sexual orientation change
7 efforts:

8 (1) Have been based on developmental theories whose
9 scientific validity is questionable;



1 (2) Have relied on anecdotal reports of cures that have not
2 been tested, substantiated or verified by any rigorous scientific
3 research or peer-reviewed studies; and

4 (3) Have not been proven to be medically or clinically
5 effective but have been shown to have a high potential to cause
6 substantial harm to the physical and psychological well-being of the
7 patient, especially children under 18 years of age because they are
8 much more vulnerable to the potentially traumatic effects of such
9 intensive conversion therapies.

10 (b) A significant number of well-known and well-respected
11 professional and scientific organizations have publicly denounced or
12 disavowed conversion therapies because of the highly doubtful
13 effectiveness and highly probable harmfulness of such therapies.
14 Such organizations include, without limitation, the American
15 Psychological Association, American Psychiatric Association,
16 American Psychoanalytic Association, American Counseling
17 Association Governing Council, American Medical Association
18 Council on Scientific Affairs, American Academy of Child and
19 Adolescent Psychiatry, American Academy of Pediatrics, American
20 School Counselor Association, National Association of Social
21 Workers and Pan American Health Organization.

22 (c) Such organizations have determined that conversion
23 therapies may be particularly harmful or destructive to children
24 because such therapies:

25 (1) Aggravate and intensify harmful or destructive feelings,
26 including, without limitation, confusion, depression, guilt, shame,
27 stress, loneliness, helplessness, hopelessness, pointlessness,
28 disappointment, self-blame, self-hatred, low self-esteem,
29 marginalization, dehumanization, hostility, anger, betrayal or loss of
30 faith, belief, interest, concern or motivation; and

31 (2) Increase the risk of harmful or destructive behaviors,
32 including, without limitation, social withdrawal, isolation, substance
33 abuse, suicide, deception, high-risk sexual behaviors and unlawful
34 behaviors.

35 2. The Legislature hereby declares that there is a legitimate and
36 compelling need to protect the well-being of children who are under
37 18 years of age from the harmful and destructive effects of
38 conversion therapies by prohibiting certain licensed health care
39 professionals from providing children with conversion therapies
40 because such therapies have not been proven to be medically or
41 clinically effective but have been shown to have a high potential to
42 cause substantial harm to the physical and psychological well-being
43 of children, who are much more vulnerable to the potentially
44 traumatic effects of such intensive conversion therapies.



1 **Sec. 1.5.** Chapter 629 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *A psychotherapist shall not provide any conversion therapy*
4 *to a person who is under 18 years of age regardless of the*
5 *willingness of the person or his or her parent or legal guardian to*
6 *authorize such therapy.*

7 2. *Any violation of subsection 1 is a ground for disciplinary*
8 *action by a state board that licenses a psychotherapist as defined*
9 *in subsection 3.*

10 3. *As used in this section:*

11 (a) *“Conversion therapy” means any practice or treatment that*
12 *seeks to change the sexual orientation or gender identity of a*
13 *person, including, without limitation, a practice or treatment that*
14 *seeks to change behaviors or gender expressions or to eliminate or*
15 *reduce sexual or romantic attractions or feelings toward persons*
16 *of the same gender. The term does not include counseling that:*

17 (1) *Provides assistance to a person undergoing gender*
18 *transition; or*

19 (2) *Provides acceptance, support and understanding of a*
20 *person or facilitates a person’s ability to cope, social support and*
21 *identity exploration and development, including, without*
22 *limitation, an intervention to prevent or address unlawful conduct*
23 *or unsafe sexual practices that is neutral as to the sexual-*
24 *orientation of the person receiving the intervention and does not*
25 *seek to change the sexual orientation or gender identity of the*
26 *person receiving the intervention.*

27 (b) *“Psychotherapist” means:*

28 (1) *A psychiatrist licensed to practice medicine in this State*
29 *pursuant to chapter 630;*

30 (2) *A homeopathic physician, advanced practitioner of*
31 *homeopathy or homeopathic assistant licensed or certified*
32 *pursuant to chapter 630A or NRS;*

33 (3) *A psychiatrist licensed to practice medicine in this State*
34 *pursuant to chapter 633;*

35 (4) *A psychologist licensed to practice in this State pursuant*
36 *to chapter 641 of NRS;*

37 (5) *A social worker licensed in this State as an independent*
38 *social worker or a clinical social worker pursuant to chapter 641B*
39 *of NRS;*

40 (6) *A registered nurse holding a master’s degree in the field*
41 *of psychiatric nursing and licensed to practice professional*
42 *nursing in this State pursuant to chapter 632 of NRS;*

43 (7) *A marriage and family therapist or clinical professional*
44 *counselor licensed in this State pursuant to chapter 641A of NRS;*

45 *or*



1 ***(8) A person who provides counseling services as part of his***
2 ***or her training for any of the professions listed in subparagraphs***
3 ***(1) to (7), inclusive.***

4 **Sec. 2.** This act becomes effective:

5 1. Upon passage and approval for the purpose of adopting any
6 regulations and performing any other preparatory administrative
7 tasks necessary to carry out the provisions of this act; and

8 2. On January 1, 2018, for all other purposes.

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