
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that conversion therapy
2 includes a variety of techniques that seek to change a patient's
3 sexual orientation by changing patient behaviors or familial,
4 romantic, and other relationships. In the context of gender
5 identity, conversion therapy includes efforts to change
6 demeanor, actions, and dress associated with gender roles and to
7 suppress gender nonconforming behaviors for the purpose of
8 changing gender identity.

9 The legislature further finds that the professional
10 consensus acknowledges that variations in sexual orientation and
11 gender identity are normal, nonpathological parts of human
12 identity, and that efforts to change these nonconforming
13 identities, whether carried out through aversive or nonaversive
14 techniques, are ineffective. Furthermore, every major
15 professional health care association in the country agrees that
16 conversion therapy is not just ineffective and unnecessary but
17 can be harmful to the patient. Upon hearing that their sexual



1 orientation or gender identity can and needs to be fixed,
2 patients may experience chronic feelings of shame and guilt that
3 compound into long-term emotional distress and lower levels of
4 educational and vocational achievement. Conversion therapy
5 efforts are associated with increased isolation, self-hatred,
6 internalized stigma, depression, anxiety, and suicidality. For
7 religious patients, conversion therapy inflicts additional harm
8 by distancing them from their faith institutions, worsening
9 family relationships, and undermining their faith.

10 The legislature also finds that, pursuant to its
11 longstanding authority to protect the residents of the State
12 from substandard care, Act 13, Session Laws of Hawaii 2018, and
13 Act 157, Session Laws of Hawaii 2019, were enacted to restrain
14 the use of the ineffective and harmful practice of conversion
15 therapy in the context of both sexual orientation and gender
16 identity.

17 However, the legislature acknowledges that the Supreme
18 Court of the United States is anticipated to announce an
19 exemption in the case of Chiles v. Salazar, No. 24-539 (U.S.),
20 which involves a counselor challenging Colorado's prohibition on
21 conversion therapy on the basis of protected free speech.



1 Accordingly, the purpose of this Act is to provide for the
2 conditional amendment of the existing prohibition on conversion
3 therapy, which shall take effect only upon a final decision by
4 the Supreme Court of the United States overturning the decision
5 in Chiles v. Salazar, 116 F.4th 1178 (10th Cir. 2024). The
6 amendment provides an exemption for professionals engaged in
7 talk therapy in the form of pure speech from the prohibition on
8 conversion therapy, while explicitly maintaining a ban on
9 aversive techniques.

10 SECTION 2. Section 453J-1, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§453J-1 Conversion therapy prohibited; advertising**

13 **prohibited.** (a) No person who is licensed to provide
14 professional counseling shall:

15 (1) Engage in or attempt to engage in conversion therapy
16 on a person under [~~eighteen~~] twenty-five years of age;
17 or

18 (2) Advertise the offering of conversion therapy on a
19 person under [~~eighteen~~] twenty-five years of age.

20 (b) Any person who is licensed to provide professional
21 counseling who engages in or attempts to engage in the offering



1 of conversion therapy on a person under [~~eighteen~~] twenty-five
2 years of age shall be subject to disciplinary action by the
3 appropriate professional licensing authority.

4 (c) For purposes of this section:

5 "Advertise" means a communication made by or on behalf of a
6 person who is licensed to provide professional counseling, made
7 for the purpose of inducing or promoting a professional
8 counseling relationship in which conversion therapy will be
9 undertaken on a person under the age of [~~eighteen.~~] twenty-five.

10 "Advertise" includes oral, written, graphic, or pictorial
11 statements or representations, including those made through any
12 electronic or print medium.

13 "Aversive techniques" means techniques that utilize
14 unpleasant stimuli to induce changes in behavior, such as
15 electric shocks, deprivation of food and liquids, chemically
16 induced nausea, or other physical interventions.

17 "Conversion therapy" means any practices or treatments that
18 seek to change an individual's sexual orientation or gender
19 identity, including efforts to change behaviors or gender
20 expressions or to eliminate or reduce sexual or romantic
21 attractions or feelings toward individuals of the same gender.



1 "Conversion therapy" includes aversive techniques.

2 "Conversion therapy" [~~shall~~] does not include [~~counseling~~]:

3 (1) Talk therapy in the form of pure speech; and

4 (2) Counseling that provides assistance to a person

5 undergoing gender transition, or counseling that

6 provides acceptance, support, and understanding of a

7 person or facilitates a person's coping, social

8 support, and identity exploration and development,

9 including sexual orientation-neutral interventions to

10 prevent or address unlawful conduct or unsafe sexual

11 practices, as long as such counseling does not seek to

12 change an individual's sexual orientation or gender

13 identity.

14 "Person who is licensed to provide professional counseling"

15 means a person who performs counseling as part of the person's

16 professional training, including a physician, especially one

17 practicing psychiatry, licensed pursuant to chapter 453;

18 psychologist licensed pursuant to chapter 465; nurse licensed

19 pursuant to chapter 457; social worker licensed pursuant to

20 chapter 467E; licensed mental health counselor licensed pursuant



1 to chapter 453D; or licensed marriage and family therapist
2 licensed pursuant to chapter 451J."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 3000;
6 provided that the attorney general certifies to the revisor of
7 statutes that the Supreme Court of the United States has
8 overturned the holding of Chiles v. Salazar, 116 F.4th 1178
9 (10th Cir. 2024).



Report Title:

Conversion Therapy; Sexual Orientation; Gender Identity; Talk
Therapy; Age

Description:

Amends the existing prohibition on conversion therapy by prohibiting the practice on persons under the age of twenty-five and the advertisement of such practice. Explicitly provides that talk therapy in the form of pure speech is exempt from the prohibition on conversion therapy. Takes effect upon the certification by the Attorney General that the Supreme Court of the United States has overturned the holding in Chiles v. Salazar, 116 F.4th 1178 (10th Cir. 2024). Effective 7/1/3000.
(HD1)

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