

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA

ROBERT W. OTTO, PH.D. LMFT,
individually and on behalf of his patients,
JULIE H. HAMILTON, PH.D., LMFT,
individually and on behalf of her patients,

CASE NO.: 9:18-cv-80771-RLR

Plaintiffs,

v.

CITY OF BOCA RATON, FLORIDA,
and COUNTY OF PALM BEACH,
FLORIDA,

Defendants

**ALLIANCE FOR THERAPEUTIC CHOICE'S MOTION FOR LEAVE
TO FILE AMICUS BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION AND INCORPORATED MEMORANDUM OF LAW**

Pursuant to S.D. Fla. Local Rule 7.1, Amicus Curiae Alliance for Therapeutic Choice and Scientific Integrity ("Alliance"), by and through the undersigned counsel, hereby moves this Court for leave to file an amicus brief in support of Plaintiffs' Renewed Motion for Preliminary Injunction. (Dkt. 8).

MEMORANDUM OF LAW IN SUPPORT

1. This Court has recognized its own inherent authority to allow the participation of amicus curiae. *See, e.g., Resort Timeshare Resales, Inc. v. Stuart*, 764 F. Supp. 1495, 1500 (S.D. Fla. 1991) ("The district court, however, has the inherent authority to appoint *amici curiae* or "friends of the court" to assist it in a proceeding."); *Consumer Fin. Prot. Bureau v. Ocwen Fin. Corp.*, No. 9:17-CV-80495-MARRA/MATTHEMAN, 2018 WL 3368746, *1 (S.D. Fla. July 6, 2018) ("District courts have inherent power to appoint amicus curiae to assist it in a proceeding."); *see also*

Conservancy of Sw. Florida v. United States Fish & Wildlife Serv., No. 2:10-cv-106-FtM-SPC, 2010 WL 3603276, * [add page] (M.D. Fla. Sept. 9, 2010) (“It is well-settled that a district court has broad discretion to grant the request of a non-party to file an amicus brief.”).

2. Indeed, as this Court has already recognized in the instant litigation, it has the inherent authority to grant the participation of amicus curiae. (See Dkt. 73) (citing *In re Bayshore Food Truck Sales, Inc.*, 471 F.3d 1233, 1249 n.34 (11th Cir. 2006) (permitting amicus participation in support of Defendants).

3. While there is no specific rule in the Federal Rules of Civil Procedure, “District courts have looked to Federal Rule of Appellate Procedure 29 to guide the exercise of this inherent power.” *Ocwen*, 2018 WL 3368746, at *1. That appellate rule permits leave to file an amicus brief when “the court is satisfied as to the movant’s interest and reasons why an amicus brief would be desirable and relevant to the disposition of the case.” *Id.*

4. Courts have routinely permitted participation of amici who have an interest in the outcome of the litigation and whose participation can contribute to the court’s understanding of relevant factual and legal issues. See *Conservancy of Sw. Fla.*, 2010 WL 3603276, at *1 (“Courts have recognized that permitting friends of the court may be advisable where the third parties can contribute to the court’s understanding of the matter in question.”); *Resort Timeshare*, 764 F. Supp. at 1501 (“Participation of *amicus curiae* will alert the court to the legal contentions of concerned bystanders, and because it leaves the parties free to run their own case is the strongly preferred option.” (quoting *Bethune Plaza, Inc. v. Lumpkin*, 863 F.2d 525, 533 (7th Cir. 1988))).

5. Here, the Alliance has a unique and helpful alternative viewpoint to share with this Court concerning Plaintiffs' Motion for Preliminary Injunction. The Alliance is a multi-disciplinary professional and scientific organization dedicated to preserving the right of individuals to obtain the services of a therapist who honors their values, advocating for integrity and objectivity in social science research, and ensuring that competent, licensed professional assistance is available for persons who experience unwanted same-sex attractions or gender confusion. The Alliance is an organization of professional practitioners and scientific researchers who advocate for the practice of mainstream, standard clinical models, approaches, and techniques. Alliance members across the mental health spectrum have provided tremendous benefit and life-saving counseling to clients across the country, including minors. Alliance members across the spectrum have seen the benefit of ethical, competent counseling for clients whose same-sex attractions or gender confusion do not match their own concept of self or their religious beliefs. The Alliance is also in a unique position to provide the Court with testimony and examples of the life-saving benefits its members' clients have experienced as a result of voluntary, speech-only SOCE counseling.

6. The Alliance respectfully notes that this Court, in the instant litigation, has permitted the participation of two different amicus in support of Defendants. (Dkt. 73). Permitting amicus participation by the Alliance would therefore provide the Court with a more complete and balanced viewpoint on the important issues involved in this case.

7. The Alliance respectfully submits its proposed amicus brief as Exhibit A to this Court.

8. Prior to the filing of the instant motion, counsel for the Alliance contacted counsel for all parties requesting consent to file the attached amicus brief. Counsel for Plaintiffs consented to the Alliance's participations as amicus, and counsel for Defendants each objected to this filing without explanation.

WHEREFORE, for good cause shown, the Alliance respectfully requests that this Court grant leave to participate as amicus curiae and to deem the amicus brief submitted as Exhibit A filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of October, 2018, I caused a true and correct copy of the foregoing to be electronically filed with this Court. Service will be effectuated on all counsel of record via this Court's ECF/electronic notification system.

LAW OFFICES OF MAX R. PRICE, P.A.
6701 Sunset Drive #104
Miami, Florida 33143
Tel.: (305) 662-2272
Fax: (305) 667-3975
Primary: mprice@pricelegal.com
Secondary: elena@pricelegal.com

BY: /s/ *Max R Price*

MAX R. PRICE, ESQ.
FBN: 651494

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STATEMENT OF INTEREST

Amicus Curiae Alliance for Therapeutic Choice (“Alliance”) is a multi-disciplinary professional and scientific organization dedicated to preserving the right of individuals to obtain the services of a therapist who honors their values, advocating for integrity and objectivity in social science research, and ensuring that competent, licensed professional assistance is available for persons who experience unwanted same-sex attractions. The Alliance is an organization of professional practitioners and scientific researchers who advocate for the practice of mainstream, standard clinical models, approaches, and techniques.

The Alliance opposes efforts to restrict client self-determination and autonomy and to dismiss and denigrate deeply held client values. The Alliance believes that such efforts result in significant psychological harm to the client and infringes on their fundamental right to self-determination. The Alliance holds a client’s right to self-determination as sacrosanct and privileges the client’s agenda, self-determination, and autonomy.

The Alliance is guided by three overarching principles and strives to see the profession of mental health counseling and scientific research abide by such principles. The three guiding principles are (1) client self-determination, (2) licensed, trained, and ethical therapies, and (3) reliance research and viewpoint diversity in mental health. The first principle of client self-determination is based on the universally recognized and accepted notion that mental health clients have the right to explore, with the assistance of a supportive therapist, questions or issues in their lives that may be causing them concern or distress. The principle is only possible when clients are permitted to

participate in the setting of counseling goals that are compatible with their freely chosen personal or religious beliefs and values. The second guiding principle is based on the notion that complicated life questions that are being addressed in mental health counseling concerning a client's attractions, values, behavior, and identity require that a counselor or therapist be qualified by demonstrating training and experience to provide effective, ethical, and empathetic counseling. The third principle recognizes that individuals who seek therapeutic assistance, reflective of the larger society, are sociologically, culturally, and politically diverse. To appropriately serve and appreciate clients with differing, yet equally healthy needs requires an equivalently diverse socio-political representation in academic, clinical, research, and professional association leadership in the behavioral sciences. Efforts to silence the voices of certain counselors, based solely on their recognition of the values and religious beliefs in counseling, are contraindicated and violative of the fundamental rights of clients in the mental health counseling setting.

As a result of these three guiding principles, the Alliance opposes efforts by political, academic, social, and legislative bodies to silence the debate and restrict the viewpoint of mental health counselors that seek to assist clients with unwanted same-sex attractions, behaviors, and identity, or with gender confusion. The Alliance and its members have provided tremendous benefit and life-saving counseling to clients across the country, including minors. Alliance members across the spectrum have seen the benefit of ethical, competent counseling for clients whose same-sex attractions or gender confusion do not match their own concept of self or their religious beliefs. The Alliance believes that legislation, such as the Ordinances that are at issue in this

litigation, represent a dangerous threat to the First Amendment rights of counselors and clients, violate the core notion of mental health counseling, and run roughshod over the values, beliefs, and objectives of clients.

INTRODUCTION

Silencing the speech (or practices) of licensed professionals has a long and storied history. Unfortunately, that history is not one of progress, but of a march to tyranny. Indeed, “[t]hroughout history, governments have manipulated the content of doctor-patient discourse to increase state power and suppress minorities.” *National Inst. for Family & Life Advocates v. Becerra*, 138 S. Ct. 2361, 2374 (2018).

For example, during the Cultural Revolution, Chinese physicians were dispatched to the countryside to convince peasants to use contraception. In the 1930s, the Soviet government expedited completion of a construction project on the Siberian railroad by ordering doctors to both reject requests for medical leave from work and conceal this government order from their patients. In Nazi Germany, the Third Reich systematically violated the separation between state ideology and medical discourse. German physicians were taught that they owed a higher duty to the ‘health of the Volk’ than to the health of individual patients. Recently, Nicolae Ceausescu’s strategy to increase the Romanian birth rate included prohibitions against giving advice to patients about the use of birth control devices and disseminating information about the use of condoms as a means of preventing the transmission of AIDS.

Id.

Because of this history of government tyranny in the context of suppressing the speech of medical professionals, the Supreme Court has recognized that “regulating the content of professionals’ speech ‘poses the inherent risk that the government seeks not to advance a legitimate regulatory goal, but to suppress unpopular ideas or information.’” *Id.* (quoting *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 641 (1994)). Additionally, “when the government polices the content of professional speech, it can fail to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail.” *Id.* (quoting *McCullen v. Coakley*, 134 S. Ct. 2518, 2529 (2014)). And, the Alliance notes that suppressing the speech of licensed medical and mental health professionals poses the enhanced risk of suppressing crucial and life-saving information because “[d]octors help patients make deeply personal decisions, and their candor is crucial.” *Wollschlaeger v. Florida*, 848 F.3d 1293, 1328 (11th Cir. 2017) (en banc) (Pryor, J., concurring).

It is because of this backdrop, and the threat that silencing the speech of licensed professionals on a form of counseling that benefits countless clients, that the Alliance believes the Ordinances are unconstitutional, unconscionable, and unlawful. Speech of licensed medical and mental health professionals is critical. Indeed, the protection of speech “has great relevance in the fields of medicine and public health, where information can save lives.” *Sorrell v. IMS Health, Inc.*, 564 U.S. 552, 566 (2011). Because the Ordinances ignore the tyrannical history of silencing the speech of medical professionals, infringe the fundamental right of clients to self-determination, ignore the tremendous benefit that clients receive from SOCE counseling, and run roughshod over the First Amendment, the Alliance urges this Court to enjoin the Ordinances.

ARGUMENT

I. INFORMED CONSENT IS THE TOUCHSTONE OF MENTAL HEALTH COUNSELING AND MINORS ARE RECOGNIZED TO BE ABLE TO CONSENT TO MENTAL HEALTH COUNSELING.

A. Obtaining Informed Consent Is Mandatory On All Mental Health Counselors, Even In Counseling Involving New, Unrecognized, Or Controversial Techniques.

The fundamental notion of mental health counseling is the exercise of the client's right to self-determination. Indeed, "[t]he fountainhead of the doctrine of informed consent is the patient's right to exercise control over his own body . . . by deciding for himself whether or not to submit to a particular therapy." *Sard v. Hardy*, 379 A.2d 1014, 1019 (Md. Ct. App. 1977). In fact, "the right to control medical decisions affecting one's body can hardly be questioned." *Gray by Gray v. Romeo*, 697 F. Supp. 580, 586 (D.R.I. 1988). Because each person has the right to determine what shall be done to his own body, "[t]rue consent to what happens to one's self is the informed exercise of a choice, and that entails an opportunity to evaluate knowledgeably the options available and the risks attendant upon each." *Canterbury v. Spence*, 464 F.2d 772, 780 (D.C. Cir. 1972). "The doctrine that a consent effective as authority to form therapy can arise only from the patient's understanding of alternatives to and risks of the therapy is commonly denominated 'informed consent.'" *Id.* at 780 n.15. Indeed, "ordinarily [a patient] has only his physician to whom he can look for enlightenment with which to reach an intelligent decision." *Id.* at 780. "Adequate disclosure and informed consent are, of course, two sides of the same coin—the former being the *sina qua non* of the latter," and "[f]rom these almost axiomatic considerations springs the need, and in turn the requirement, of a reasonable divulgence by physician to patient to make such a decision possible." *Id.*

at 780 & n.15. These truths form the hallmark of mental health counseling: the client should be given information concerning his counseling, informed of the potential benefits and risks, and placed in a position to make the most informed choice he can. After that, the fundamental concept of mental health counseling takes over: the right of the client to self-determination.

It is these truths that are reflected in countless codes of ethics for mental health professionals. Standard 1.2 of the American Association of Marriage and Family Therapist Code of Ethics (“AAMFT Code”) requires that marriage and family therapists “obtain appropriate informed consent to therapy or related procedures and use language that is reasonably understandable to client.” American Association of Marriage and Family Therapists, *Code of Ethics*, https://www.aamft.org/Legal_Ethics/Code_of_Ethics.aspx (last visited October 8, 2018). It is only through application of that informed consent requirement that marriage and family therapists can abide by Standard 1.8 of the AAMFT Code, which requires that marriage and family therapists “respect the rights of clients to make decisions and help them to understand the consequences of these decisions.” *Id.*

The American Psychological Association Code of Ethics (“APA Code”), likewise, recognizes this fundamental principle of mental health counseling. Standard 3.10 mandates that psychologist “obtain informed consent of the individual or individuals using language that is reasonably understandable” to the client. American Psychological Association, *Ethical Principles of Psychologists and Code of Conduct*, <https://www.apa.org/ethics/code/> (last visited October 7, 2018). Even in contexts where generally recognized techniques are in development or do not yet exist, Standard 10.01

of the APA Code recognizes that informed consent is still possible. It states that “[w]hen obtaining informed consent for treatment for which generally recognized techniques or procedures have not been established, psychologists inform their clients/patients of the developing nature of the treatment, the potential risks involved, alternative treatments that may be available, and the voluntary nature of their participation.” *Id.*

These procedures permit the client to be fully informed of the course of counseling that the therapist intends to engage in to aid the clients in achieving their goals and in aligning their goals to their own concept of self.

B. Parents Can Consent To Counseling For Minors And Are Presumed To Act In The Best Interest Of Their Children.

It is now axiomatic that parents have the fundamental right and the responsibility to make decisions concerning the care and upbringing of their children. *See, e.g., Parham v. J.R.*, 442 U.S. 584, 602 (1979) (“our constitutional system long ago rejected the notion that a child is the mere creature of the State, and on the contrary, asserted that parents generally have the right, coupled with the high duty, to recognize and prepare their children for additional obligations. . . . this includes a high duty to recognize the symptoms of illness and to seek and follow medical advice.”); *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (“the interest of parents in the care, custody, and control of their children . . . is perhaps the oldest fundamental liberty interest recognized by this Court”). Coupled with this long-established truth, is the presumption that parents act in the best interest of their children, including in medical and mental health decisions. *Troxel*, 530 U.S. at 68 (“there is a presumption that fit parents act in the best interest of their children”). Indeed, “[t]he law’s concept of family rests on a presumption

that parents possess what a child lacks in maturity, experience, and capacity for judgment.” *Id.* It is based on this presumption that parents are constitutionally held to be capable of making informed decisions for their children concerning medical care.

The ethical codes of many mental health professional organization also recognize, and indeed require, the consent of parents for minors to engage in mental health counseling. Standard 1.2 of the AAMFT Code states that “[w]hen persons, due to age or mental status, are legally incapable of giving informed consent, marriage and family therapists obtain informed permission from a legally authorized person.” American Association of Marriage and Family Therapists, *Code of Ethics*, https://www.aamft.org/Legal_Ethics/Code_of_Ethics.aspx (last visited October 8, 2018). Standard 3.10(b) of the APA Code states that informed consent for minors should include a discussion with the minor and the legal guardians, an attempt to obtain the minor’s assent to counseling, a discussion with the minor of their preferences and best interests, and then obtain appropriate permission from the parents. American Psychological Association, *Ethical Principles of Psychologists and Code of Conduct*, <https://www.apa.org/ethics/code/> (last visited October 7, 2018). This principle is in line with the common sense reality that if a minor does not desire to engage in a form of counseling, such as non-aversive “talk therapy” SOCE, it makes no practical sense to engage in such counseling with that minor, regardless of any legal consent obtained from the parents. Clients, including minors, who have no desire to engage in a course of discussion fundamentally at odds with their own wishes and concept of self are not going to participate or engage in any form of counseling, regardless of their parents’ wishes. Speech-only SOCE counseling of the non-aversive, voluntary kind that Alliance

members provide cannot take place without the full and voluntary participation of the client, regardless of age.

Consent from both the minor – as recognized in the APA Code – and the parents – having the fundamental right of parents to direct the upbringing of their children – must be coupled together to obtain a beneficial form of SOCE counseling. Thus, regardless of whether consent is obtained (1) by the minor himself, as is increasingly recognized, (2) by both the parents and the minor, or (3) obtained solely from the parent, counseling can only succeed if it involves willing assent from all participants. This is why voluntary SOCE counseling has proven successful to those clients, including minors, who desire to obtain it, willingly participate in it, and share the ultimate goals appurtenant to such counseling.

C. Minors Are Increasingly Recognized To Be Able To Consent To Therapy.

Defendants in this matter argue that informed consent is not an adequate alternative for completely silencing SOCE counseling, because minors are unable to provide informed consent. This is incorrect as a matter of Florida statutory law, significant case law, and even the recognition of the American Psychological Association.

Florida statutes permit minors to consent to mental health counseling. Fla. Stat. § 394.4784(2) (minors over the age of 13 “shall have the right to request, consent to, and receive outpatient crisis intervention services including individual psychotherapy, group therapy, counseling, or other forms of verbal therapy provided by a licensed mental health professional”). Other statutes permit a minor, “acting alone” to voluntarily apply for and obtain substance abuse treatment. Fla. Stat. § 397.501(7)(e)(1) (“a minor

acting alone has the legal capacity to voluntarily apply for and obtain substance abuse treatment”). Florida statutes also give minors the right to consent to medical services relating to the minor’s pregnancy and related issues. See Fla. Stat. § 743.065 (“An unwed pregnant minor may consent to the performance of medical or surgical care relating to her pregnancy.”).

Many courts also recognize the rights of minors to seek medical treatment on their own, receive information relating to such treatment, and to provide informed consent. See, e.g., *Planned Parenthood of Cent. Miss. v. Danforth*, 428 U.S. 52, 75 (1976) (holding that constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority and noting that minors can consent to certain medical procedures); *Hodgson v. Minnesota*, 497 U.S. 417 (1990); *Lenz v. Winburn*, 51 F.3d 1540, 1548 (11th Cir. 1995) (noting that minors are able to give consent for purposes of the Fourth Amendment); *N. Fla. Women’s Health & Counseling Servs., Inc. v. State*, 866 So.2d 612, 622 (Fla. 2003) (noting that a minor is fully capable and statutorily permitted to give informed consent to medical services); *In re T.W.*, 551 So.2d 1186, 1195 (Fla. 1989) (noting that Florida law permits minors to give informed consent for significant medical decisions, even when such decisions have “dire possible consequence”).

Finally, while much emphasis is placed on the conclusions of the American Psychological Association Task Force Report on Appropriate Therapeutic Responses to Sexual Orientation (“APA Report”), there is a critical recognition in the report that minors can and do consent to mental health counseling, on their own, even in counseling situations involving issues related to sexual orientation or gender identity. Indeed, it

states plainly that: “[i]t is now recognized that adolescents are cognitively able to participate in some health care treatment decisions.” See American Psychological Association, *Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual* 130 (August 2009), available at <https://www.apa.org/pi/lgbt/resources/therapeutic-response.pdf> (last visited October 9, 2018).

As is clear, not only is informed consent the touchstone of mental health counseling, but it is an adequate alternative to protect all clients from purportedly harmful counseling. Silencing the speech of licensed professionals while eschewing the long-recognized protections informed consent procedures can provide ignores the requirements of the First Amendment. Indeed, as the Court said in *National Institute for Family and Life Advocates*, the Ordinances’ failure to consider less restrictive alternatives makes it look like the “government seeks not to advance a legitimate regulatory goal, but to suppress unpopular ideas or information.” 138 S. Ct. at 2374. The Alliance believes, and the Constitution demands, that this Court require more carefully restricted alternatives that do not completely ban speech.

II. MINOR CLIENTS OF ALLIANCE THERAPISTS WHO SEEK, REQUEST AND WILLINGLY AND VOLUNTARILY ENGAGE IN SOCE COUNSELING RECEIVE LIFE-SAVING BENEFIT FROM SUCH COUNSELING.

The Alliance and its members have counseled countless clients who have received life-saving and tremendous benefit from SOCE counseling. While there could be an endless recitation of similar examples, for purposes of brevity the Alliance will provide several salient examples from minors who have benefitted from SOCE counseling the testimony of their success.

1. John Doe 1 Eliminated His Suicidality, Eliminated His Unwanted Same-Sex Attractions, And Healed His Wounds From Voluntary SOCE Counseling.

One client of an Alliance member was a fifteen year old minor, John Doe 1, who sought and willingly received SOCE counseling from a licensed mental health professional in New Jersey. John Doe 1 began experiencing confusion concerning his gender identity was when he was approximately nine years old. His parents would have frequently hostile arguments early in their marriage, and they often had them in front of John Doe 1. The client's father had a difficult time conveying his love and support outwardly or expressing it verbally to John Doe 1, and he generally spent all of his time focusing on being the provider of the home. As a result, John Doe 1's father sometimes neglected his other duties, which caused a lot of problems and hurt his son. John Doe 1's father did not understand the artistic side of his son, so he neglected and ignored him sometimes for not behaving like a typical boy. Sometimes the father would verbalize his lack of understanding, and this caused great pain and hurt on John Doe. Because of this family environment, John Doe 1 developed a dislike of boys and men, thought that boys were stupid because of the harsh words his mother had spoken towards his father, and did not feel like his father accepted him as a younger child.

When he around was ten, John Doe 1 began to attempt to behave like a girl, look like a girl, and would affirmatively try to display female mannerisms and expressions. This caused significant psychological distress for John Doe 1, as it did not comport with his own concept of self, and he started having frequent thoughts of suicide because of his severe confusion about his gender identity. When John Doe 1 was approximately twelve or thirteen, he began to experience same-sex attractions and developed

substantial anxiety, distress, and confusion over those feelings. At that time, he began having thoughts of hopelessness and despair. He was experiencing significant psychological distress over those feelings, and his thoughts of suicide became nearly a constant. John Doe 1 compared himself to other males that he thought were masculine and displayed the typical characteristics of a male, and he did not think that he would ever measure up to that standard. His confusion and distress caused him great anxiety, and his obsessive-compulsive traits became worse than they had ever been. John Doe 1 began having panic attacks during the day and was unable to sleep at night due to his severe anxiety. At this point, he began to think of killing himself every day, and his depression was severely harming his emotional stability.

On a family trip to the beach, John Doe 1 was so depressed and confused that he attempted to fling himself off of the balcony of the hotel where his family was staying. His suicide attempt was not successful, but after that event, John Doe 1 finally reached out to his parents for help, and asked for counseling to help with his unwanted same-sex attractions and gender confusion. John Doe 1's parents knew they had to help their son with his request, so they contacted a licensed mental health professional counselor affiliated with the Alliance. John Doe 1 was struggling with having unwanted same-sex attractions and gender identity confusion. He had not engaged in same-sex behaviors yet, but it had crossed his mind on several occasions. He was trying to suppress any expressions of his masculinity and to display any female mannerisms that he could.

One of the main reasons John Doe 1 was having such significant psychological distress over his gender identity confusion and unwanted same-sex attractions was because of his sincerely held religious beliefs that such feelings are unnatural,

unhealthy, and sinful. He wanted to live out his religious values and did not want to act out on same-sex attractions that violated his religious beliefs. One of John Doe 1's main goals in seeking SOCE counseling was to enable him to act consistently with his religious beliefs. His same-sex attractions were causing a great internal conflict with his value system and his own concept of self. He wanted to do something about it, and voluntarily sought out and received SOCE counseling.

As a result of his SOCE counseling with a licensed mental health counselor, John Doe 1 experienced tremendous benefits. He began speaking with his normal voice and did not try to suppress the male sound of it. He stopped shaving his body hair to try to look more feminine, and he stopped attempting to exhibit female mannerisms. Also, John Doe 1 significantly improved the relationship with his father, and his confidence in his own masculinity started to develop and improve. As a result of the voluntary counseling, John Doe 1 no longer experienced thoughts of suicide or hopelessness. John Doe 1 no longer experienced the tremendous psychological distress that he experienced as a result of his unwanted same-sex attractions. John Doe 1 loved the discussions that he had with his counselor and believed they were tremendously helpful to the self-desired changes he achieved.

John Doe 1's counseling sessions involved simply talking about his feelings, anxieties, and confusion that resulted from the unwanted same-sex attractions that he was struggling with and wanted to resolve. Talking with his counselor facilitated the terminations of his feelings of anxiety and hopelessness and produced lasting changes in this gender identity and with his same-sex attractions. John Doe 1's parents also noticed that he experienced significant benefits from SOCE counseling. They noticed

significant changes in their son, and found that all of them were positive. They noticed that their son no longer appears to struggle with the distress and anxiety over his gender confusion, and that he was able to make significant progress in eliminating his unwanted same-sex attractions. Most importantly, John Doe 1 eliminated his suicidal thoughts and actions or stopped threatening to kill himself as he had done prior to his counseling. Based on John Doe 1's counseling and his parents participation in it, they all knew that those benefits were the result of their son's beneficial discussions with the counselor. Indeed, SOCE counseling saved John Doe 1's life, eliminated his unwanted distress and anxiety, allowed him to eliminate his unwanted same-sex attractions and gender identity confusion, and to align his attractions and behaviors to his religious beliefs, values, and concept of self.

2. John Doe 2 Successfully Affirmed His Heterosexual Identity, Conformed His Attractions To His Religious Beliefs, And Healed His Relationship With His Family As A Result Of Voluntary SOCE Counseling.

Another Alliance member counseled a fifteen year old boy, John Doe 2, who voluntarily sought out SOCE counseling to deal with the stress and anxiety that resulted from his unwanted same-sex attractions and gender identity. John Doe 2 was the youngest of six children with four sisters in between his older brother and himself. When he was a younger child, his father was not very involved in his life because he was overwhelmed by life and remained constantly busy. Because his father did not play an active role in his life, John Doe 2 began seeking attention from the women in his home – namely, his mom and sisters. He would get his sisters dress him up like a girl just so he could feel like he fit in with someone at home. When John Doe 2 was approximately five

years old, he began to question his personal identity and became confused about who he was. John Doe 2 developed borderline obsessive-compulsive behaviors and personality traits. Because of his personal identity issues and compulsive behaviors, John Doe 2 also began to develop and experience deep emotional problems. As his desire to fit in with the women in his home continued, John Doe 2 developed certain habits and traits that reflected more traditionally feminine characteristics. Although he did engage in what would be considered more traditional boy activities, it was not enough to settle the confusion John Doe 2 had about his gender identity.

When John Doe 2 began approaching adolescence, his feelings of awkwardness and personal confusion only increased. Around that time, students at his school and other people he was around treated him strangely. He was often asked questions about his behaviors, such as: "Why are you doing that? You are acting so girly." Those questions and people's attitude towards his behaviors and personality traits only increased John Doe 2's confusion and personal feelings of awkwardness. Eventually, John Doe 2's gender confusion led to confusion about his sexual orientation and sexual identity. John Doe 2 had an uncle who was homosexual, as well as a cousin, which he believed made it easier for him to question whether he also was experiencing same-sex attractions. Those questions led to John Doe 2 actually experiencing same-sex attractions. At the time, John Doe 2 did not understand why he was experiencing the feelings that he was, but he knew that he did not like the fact that he was questioning his gender and sexual identities. He knew in his heart that such confusion and the identity issues he was experiencing did not match his own concept of self.

As a result of his feelings, John Doe 2 began to wonder whether there was

something that could help him stop experiencing those feelings and that could help him address the underlying issues causing him distress and anxiety. John Doe 2 went to his parents and told them: "I do not want to be gay; I do not want to live with these feelings." After telling his parents that he did not like the same-sex sexual attractions he was experiencing and that he did not identify with the feelings he was experiencing, John Doe 2 asked his parents if they could get him help to eliminate those feelings. His parents agreed to seek help from a professional counselor, and they contacted an Alliance member, who was a licensed mental health counselor specializing in helping men reduce or eliminate their unwanted same-sex sexual attractions. John Doe 2's counselor explained to John Doe 2 and his parents his theory of why he was experiencing same-sex attractions, which he said were really the manifestation of underlying emotional issues and childhood wounds that were caused by unmet needs John Doe 2 had as a child. Specifically, John Doe 2's counselor explained that his lack of positive attention from his father and a desire to fit in with the women in his house were the root causes of his unwanted same-sex attractions.

John Doe 2's counselor explained the types of counseling that he uses in sexual orientation SOCE counseling sessions, explained that some therapists do not think an individual can or should change his sexual orientation, explained that not everyone is able to successfully reduce or eliminate their unwanted same-sex attractions, and that often patients continue to struggle with same-sex attractions throughout life and that fully recognizing his heterosexual potential is a life-long process. Because John Doe 2 did not want to experience his same-sex attractions, he told his parents that he wanted to have the Alliance member help him through SOCE counseling.

John Doe 2 received SOCE counseling from the Alliance member for approximately a year and a half. At first, John Doe 2 was a little hesitant during the counseling sessions, but then he really began enjoying them and started to look forward to them each week. Because of John Doe 2's counseling sessions, he experienced a number of significant, positive changes. John Doe 2 stopped exhibiting the same feminine characteristics that he did before counseling. John Doe 2 began to understand that he did not have to act like a girl just to fit in with others or to receive the approval of his family. John Doe 2 began to act like the other teenage boys that he knew, and began to engage in activities with his male peers. John Doe 2 also stopped experiencing his unwanted same-sex sexual attractions. John Doe 2 was not coerced to go to SOCE counseling, voluntarily chose to seek help from his parents and the SOCE counselor, and voluntarily participated in the counseling. As a result of it, he experienced significant changes to his unwanted same-sex attractions, gender identity confusion, and concept of self. He became secure in who he was, understood his own identity, and was able to conform his attractions and behaviors to his own identity. John Doe 2's SOCE counseling also significantly improved the relationship between him and his parents, and strengthened the bond between his father and him.

3. John Doe 3 Successfully Reduced His Unwanted Same-Sex Attractions, Eliminated His Suicidality, And Affirmed His Own Concept Of Self As A Result Of Voluntary SOCE Counseling.

Another Alliance member counseled John Doe 3, who experienced significant same-sex attractions, behaviors, and identity as an adolescent. When John Doe 3 was 5 years old, he was sexually molested by a 16-year-old high school boy who was also his neighbor. As a child, John Doe 3 also suffered severe emotional abuse at the hands

of other children and was often called “fag,” “queer,” and a host of other derogatory terms. When John Doe 3 reached puberty and for many years after it, he was sexually attracted to men. For all of these years, John Doe 2 carried a feeling of immense and crushing shame for his unwanted same-sex attractions. During a period of twenty years following puberty, he became clinically depressed twice, dealt with tremendous anxiety, experienced obsessive compulsive disorder, and knew in his heart that he was very confused about his sexual orientation and gender identity. In the latter years of the twenty-year period, John Doe 3 found a course of SOCE counseling from an Alliance member that really helped him with the issues he had been experiencing.

John Doe 3 was never coerced or shamed into that course of counseling, and he voluntarily participated for several years. SOCE counseling saved John Doe 3’s life. It helped him eliminate all of the shame that he had for experiencing homosexual feelings and actually led to the dissipation of his homosexual feelings and attractions. The therapy helped solidify John Doe 3’s gender identity, which resulted in a profound increase in his self-confidence as a man and in his self-esteem. The therapy also allowed John Doe 3 to understand the nature and source of his homosexual attractions and allowed him to do the deep emotional work that he needed to do to understand those unwanted feelings. As part of the therapy, John Doe 3 learned the importance of healthy male relationships. As a result of the therapy, his sexual attractions towards women increased. The journey is still ongoing for John Doe 3, but he is very happy with the real and profound change in his sexuality that resulted from voluntary SOCE counseling.

4. John Doe 4 Successfully Repaired Relationships With His Family And Experienced Affirmation Of His Sense Of Self From Voluntary SOCE Counseling.

Another alliance member counseled a fifteen years old boy, John Doe 4. John Doe 4 is the middle child of a family of three children. When he was younger, John Doe 4's father worked all of the time and did not have much of a presence in his life. Most of the contact John Doe 4 did have with his father involved discipline and criticism. As a result, John Doe 4 and his father did not have a very good relationship when he was growing up and did not develop the natural father-son bond. John Doe 4's relationship with his mother was also strained because she had set out to prove that she was a good mom by setting up a very rigid schedule in the home and demanding academic excellence from John Doe 4. He saw his mother as too overbearing in his life and believed she was too demanding of him. When John Doe 4 first started school, his mom tried to homeschool him, but he did not like it. As a result, John Doe 4's parents put him in public school, but he experienced great difficulty there too. Upon starting public school, John Doe 4 realized quickly that he did not fit in well with the boys at school. Most of his friends were girls.

By the time John Doe 4 was twelve years old, he began experiencing unwanted same-sex attractions. At around that same time, he remembered watching a program on television that discussed homosexuality. John Doe 4 was very uncomfortable watching it, and his mother noticed his reaction to the program. She asked him if there was something wrong with him because he seemed so uncomfortable watching it, and asked if there was anything she could do to help him. He told his mother that watching that program made him very uncomfortable. After that incident, John Doe 4 tried

everything he could to push aside the unwanted same-sex attractions he was experiencing. He tried to overcompensate for the feelings by proving his masculinity in any way he could. He had a new girlfriend every week and did other things to try and prove how much of a man he was. But, despite his best efforts, it did not seem to matter to the kids at John Doe 4's school. The boys especially made fun of him and constantly teased him about his mannerisms.

When John Doe 4 was about halfway through with his eighth grade year, he informed his parents that he was gay. John Doe 4 was 14 years old at the time. John Doe 4's parents tried to understand what he was saying and to help him with his uncomfortable feelings about his unwanted same-sex attractions. John Doe 4 realized he needed and wanted help for his unwanted feelings and attractions. However, because of his strained relationship with his parents, they were unable to provide the support and help that John Doe 4 truly desired.

John Doe 4's parents wanted to help him with his goals, so they sought out a licensed mental health counselor who could assist him. His parents contacted an Alliance member and began SOCE counseling with him. John Doe 4's counselor explained his SOCE counseling sessions, explained to John Doe 4 and his parents his theory of why John Doe 4 was experiencing same-sex attractions, explained that some therapists do not think an individual can or should change his sexual orientation, explained that not everyone is able to successfully reduce or eliminate their unwanted same-sex attractions, and informed them that often patients continue to struggle with same-sex attractions throughout life. John Doe 4 voluntarily chose to proceed with and participate in the counseling.

Much of the initial focus of John Doe 4's SOCE counseling sessions was on repairing the relationship between John Doe 4 and his parents. John Doe 4 enjoyed going to the therapy sessions because he felt like his counselor was an advocate for him with his parents. John Doe 4's counselor helped to explain the problems that John Doe 4 and his parents had in the home, worked on repairing those emotional and relational wounds, and began to significantly improve the understanding, love, and affection that John Doe 4 and his parents had towards one another. As a result of engaging in voluntary SOCE counseling with his counselor and parents, John Doe 4 was able to build a better relationship with his parents, align his attractions and identity to his religious beliefs, and increase his self-esteem. SOCE counseling was of tremendous benefit to John Doe 4 and his family.

CONCLUSION

Because infringing the rights of licensed mental health counselors to provide SOCE counseling to minors who voluntarily seek it and willingly receive it ignores the fundamental right of the client to self-determination, violates the First Amendment rights of minors and professional counselors, and runs roughshod over a client's ability to align their identity, attractions, and behaviors to their own concept of self and religious values, the Alliance urges this Court to find that the Ordinances are unconstitutional. The Alliance respectfully requests that this Court grant Plaintiffs' Motion for Preliminary Injunction.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of October, 2018, I caused the foregoing to be electronically filed with this Court. Service will be effectuated on all counsel of record via this Court's ECF/electronic notification system.

LAW OFFICES OF MAX R. PRICE, P.A.
6701 Sunset Drive #104
Miami, Florida 33143
Tel.: (305) 662-2272
Fax: (305) 667-3975
Primary: mprice@pricelegal.com
Secondary: elena@pricelegal.com

BY: /s/ *Max R Price* _____

MAX R. PRICE, ESQ.
FBN: 651494