SB 1028

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 1028 (Senator Madaleno, *et al.*)

Education, Health, and Environmental Affairs Health and Government Operations

Health Occupations - Conversion Therapy for Minors - Prohibition (Youth Mental Health Protection Act)

This bill prohibits specified mental health or child care practitioners from engaging in "conversion therapy" with a minor. A violation of this prohibition is considered unprofessional conduct and must be subject to discipline by the appropriate licensing or certifying board. Additionally, the bill prohibits the use of State funds to (1) conduct or refer an individual to receive conversion therapy; (2) provide health coverage for conversion therapy; or (3) provide a grant to, or contract with, any entity that conducts or refers an individual to receive conversion therapy. The Maryland Department of Health (MDH) must adopt implementing regulations.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations, as discussed below.

Local Effect: The bill is not expected to materially affect local finances or operations, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: "Conversion therapy" means a practice or treatment by a mental health or child care practitioner that seeks to change an individual's sexual orientation or gender identity, and includes any effort to change the behavioral expression of an individual's sexual orientation; change gender expression; or eliminate or reduce sexual or

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romantic attractions or feelings toward individuals of the same gender. The definition does not include specified practices, including sexual-orientation neutral interventions to prevent or address unlawful conduct or unsafe sexual practices and that do not seek to change sexual orientation or gender identity.

"Mental health or child care practitioner" means a practitioner licensed or certified by the State Board of Physicians; the State Board of Professional Counselors and Therapists; the State Board of Examiners of Psychologists; the State Board of Social Work Examiners; and the State Board for Certification of Residential Child Care Program Professionals. The definition also includes any other practitioner who is licensed or certified to provide counseling by the practitioner's board.

Current Law/Background: According to a January 2018 report from The Williams Institute at the University of California Los Angeles School of Law, approximately 698,000 lesbian, gay, bisexual, or transgender (LGBT) adults have received conversion therapy in the United States, including about 350,000 LGBT adults who received treatment as adolescents. Additionally, approximately 20,000 LGBT youth (ages 13 to 17) are estimated to receive conversion therapy from a licensed health care professional before the age of 18.

According to The Williams Institute, conversion therapy has been practiced in the United States for over a century. Conversion therapy involves a range of techniques; talk therapy is the most common technique, but other more physical treatments are also used (*e.g.*, aversion treatments). Several professional associations, including the American Medical Association, the American Psychological Association, and the American Academy of Pediatrics, have issued statements opposing the use of conversion therapy.

A federal bill, the Therapeutic Fraud Prevention Act, was introduced in April 2017. The bill prohibits conversion therapy from being provided in exchange for monetary compensation and prohibits associated advertisements.

According to the Movement Advancement Project, as of February 2018, nine states (California, Connecticut, Illinois, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, and Vermont) and the District of Columbia have banned conversion therapy for minors.

State Fiscal Effect: The Department of Budget and Management advises that the State Employee and Retiree Health and Welfare Benefits Program does not cover conversion therapy services. Medicaid also does not cover these services.

The State Board of Physicians advises that it has not received complaints regarding conversion therapy, but that if such a complaint was received, the board would investigate

the complaint as a possible standard of care violation through the board's disciplinary proceedings (which includes peer review procedures). The State Board of Professional Counselors and Therapists also advises that the board has not received complaints regarding this practice, although it is not specifically prohibited by the Maryland Professional Counselors and Therapists Act or board regulations.

Several health occupations boards, including the State Board of Physicians, the State Board of Professional Counselors and Therapists, the State Board of Examiners of Psychologists, and the State Board of Social Work Examiners, are authorized to impose disciplinary fines in addition to or in lieu of certain disciplinary action. Such fines are remitted to the general fund. Thus, to the extent these health occupations boards receive complaints and impose disciplinary fines against licensees as a result of the bill, general fund revenues may increase minimally. Any additional disciplinary proceedings can likely be handled with existing resources.

MDH can adopt implementing regulations with existing resources.

Local Fiscal Effect: The Maryland Association of County Health Officers advises that local health departments (LHDs) do not provide conversion therapy as it is not a recommended or accepted practice. Thus, the bill does not affect LHD finances or operations.

Small Business Effect: Potential meaningful for mental health or child care practitioners that offer conversion therapy. The bill explicitly prohibits the practice of conversion therapy with minors under State law and subjects specified practitioners to discipline for the practice by the appropriate licensing or certifying board. The bill also prohibits the award of State funds or contracts to entities that provide or refer individuals for such services.

Additional Information

Prior Introductions: None.

Cross File: HB 902 (Delegate Cullison, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Association of County Health Officers; Maryland Commission on Civil Rights; Maryland State Department of Education; Department of Budget and Management; Maryland Department of Health; Department of Juvenile Services; The Williams Institute; The Movement Advancement Project; Department of Legislative Services

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CONVERSION THERAPY AND LGBT YOUTH

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EXECUTIVE SUMMARY

Conversion therapy is treatment grounded in the belief that being LGBT is abnormal. It is intended to change the sexual orientation, gender identity, or gender expression of LGBT people.[1] Conversion therapy is practiced by some licensed professionals in the context of providing health care and by some clergy or other spiritual advisors in the context of religious practice.[2] Efforts to change someone's sexual orientation or gender identity are associated with poor mental health,[3] including suicidality.[4] To date, nine states, the District of Columbia, and 32 localities have banned health care professionals from using conversion therapy on youth.

The Williams Institute estimates that:

- 698,000 LGBT adults (ages 18-59)[5] in the U.S. have received conversion therapy, including about 350,000 LGBT adults who received treatment as adolescents.[6]
- 20,000 LGBT youth (ages 13-17) will receive conversion therapy from a licensed health care professional before they reach the age of 18 in the 41 states that currently do not ban the practice.[7]
- 6,000 LGBT youth (ages 13-17) who live in states that ban conversion therapy would have received such therapy from a licensed health care professional before age 18 if their state had not banned the practice.[8]
- 57,000 youth (ages 13-17) across all states will receive conversion therapy from religious or spiritual advisors before they reach the age of 18.[9]

HISTORY

Conversion therapy has been practiced in the U.S. for over a century. Academic literature has documented instances of conversion therapy being used as early as the 1890s and continuing through the present day.[10] Throughout the history of conversion therapy, a range of techniques have been used by both health care professionals and religious figures seeking to change people's sexual orientation or gender identity. Currently, talk therapy is the most commonly used therapy technique.[11] Some practitioners have also used "aversion treatments, such as inducing nausea, vomiting, or paralysis; providing electric shocks; or having the individual snap an elastic band around the wrist when the individual became aroused to same-sex erotic images or thoughts."[12] Other practitioners have used non-aversive techniques such as attempting to "change

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thought patterns by reframing desires, redirecting thoughts, or using hypnosis."[13]

An estimated 698,000 LGBT adults in the U.S have received conversion therapy either from a licensed professional or a religious advisor or from both at some point in their lives,[14] including about 350,000 LGBT adults who received conversion therapy as adolescents.[15]

CURRENT PERSPECTIVES

Professional Health Associations

A number of prominent national professional health associations—including the American Medical Association, the American Psychological Association, and the American Academy of Pediatrics, among others—have issued public statements opposing the use of conversion therapy because it is harmful and ineffective.[16] Several of these associations have called on Congress and state legislatures to pass laws that ban conversion therapy. For example, the CEO of the American Counseling Association (ACA) submitted testimony to the Illinois House and Senate in support of the state's conversion therapy ban bill in 2015.[17] In addition, ACA members sent 79 letters to the Governor and 84 letters to state legislators in support of the bill.[18] Also, several professional health associations have endorsed the Therapeutic Fraud Prevention Act, a federal bill that would prohibit the practice of conversion therapy, including the National Association of School Psychologists, the American Psychoanalytic Association, the American Counseling Association, and the American Academy of Pediatrics.[19]

Public Opinion

Three recent public opinion polls found majority support for ending the use of conversion therapy on youth. A 2017 Gravis Marketing poll found that 71% of Florida residents believed that the use of conversion therapy on youth should be illegal.[20] A 2016 Gravis Marketing poll similarly found that 64% of Virginia residents believed that the use of conversion therapy on youth should be illegal.[21] Another 2016 poll conducted by the Center for Civil Policy similarly found that 60% of New Mexico respondents supported a legal ban on the use of conversion therapy on youth.[22] Polling also indicates that many people do not think conversion therapy is effective; only 8% of respondents to a 2014 national poll said they thought conversion therapy could change a person's sexual orientation from gay to straight.[23]

CURRENT LAWS

Conversion Therapy by Licensed Health Care Professionals

As of January 2018, nine states and the District of Columbia had passed statutes limiting the use of conversion therapy: California, Connecticut, D.C., Illinois, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, and Vermont.[24] The laws protect youth under age 18 from receiving conversion therapy from licensed mental health care[25] providers and, in some states, other individuals who perform conversion therapy services in exchange for payment.[26] California was the first state to pass a conversion therapy ban in

2012.[27] Four states—Connecticut, Nevada, New Mexico, and Rhode Island—passed bans in 2017.[28] While more limited in reach than the statutory bans, a gubernatorial executive order in New York prohibits the state's Medicaid program and private health insurers from providing coverage for conversion therapy on youth and prohibits facilities under the State Division of Mental Health from performing conversion therapy on youth.[29] In addition, 32 localities in states without statewide bans have passed bans at the local level,[30] over half (19) of these localities are in Florida.[31]

All of the state statutory bans allow licensing entities to discipline health care providers who use conversion therapy on youth under age 18.[32] Under Connecticut and Illinois laws, the use of conversion therapy on youth is also considered an unfair business practice and the laws allow for enforcement and penalties consistent with other state laws against such practices.[33] In addition, in 2015, a New Jersey court held that providing conversion therapy in exchange for payment constitutes a fraudulent business practice, regardless of whether it is used on youth or adults.[34]

An estimated 20,000 LGBT youth (ages 13-17) will receive conversion therapy from a licensed health care professional before they reach the age of 18 in the 41 states that currently do not ban the practice, unless additional states pass conversion therapy bans.[35] An estimated 6,000 LGBT youth (ages 13-17) who live in states with conversion therapy bans would have received such therapy from a licensed health care professional before age 18 if their state had not banned the practice.[36]

More states are expected to consider conversion therapy bans in 2018.[37] In addition, members of Congress have introduced federal legislation aimed at ending conversion therapy. The Therapeutic Fraud Prevention Act,[38] introduced in both the House and Senate in 2017, would classify conversion therapy provided in exchange for payment as a form of consumer fraud.[39] The law would allow state attorneys general and the Federal Trade Commission to bring enforcement actions against individuals who are providing conversion therapy for payment or advertising such services.[40]

Conversion Therapy by Religious and Spiritual Advisors

The state statutory conversion therapy bans apply to licensed mental health care providers and sometimes to any others who seek to provide conversion therapy in exchange for payment.[41] The laws generally do not apply to religious or spiritual advisors who engage in sexual orientation or gender identity change efforts within their pastoral or religious capacity. In most states with bans (California, D.C., Nevada, New Mexico, Oregon, Rhode Island, and Vermont[42]), this means that any individuals (including licensed professionals) may engage in conversion therapy as long as they are acting as clergy or religious counselors and they do not hold themselves out as acting pursuant to a professional license. In states with bans on providing conversion therapy in exchange for payment (Connecticut, Illinois, and New Jersey[43]), religious or spiritual advisors acting in a pastoral or religious capacity may continue to provide conversion therapy as long as they are not acting pursuant to a professional license and they do not accept payment for their services.

These exclusions for therapy provided by religious or spiritual advisors leave many youth vulnerable to conversion counseling even in states with bans. An estimated 57,000 youth (ages 13-17) across all states will receive conversion therapy from religious or spiritual advisors before they reach the age of 18.[44]

ENDNOTES

[1] JUDITH M. GLASSGOLD ET AL., AM. PSYCH. ASSOC., REPORT OF THE AM. PSYCH. ASSOC. TASK FORCE ON APPROPRIATE THERAPEUTIC RESPONSES TO SEXUAL ORIENTATION 22 (2009).

[2] Susan L. Morrow & A. Lee Beckstead, *Conversion Therapies for Same-Sex Attracted Clients in Religious Conflict: Context, Predisposing Factors, Experiences, and Implications for Therapy*, 32 COUNSELING PSYCHOLOGIST 641, 642 (2004).

[3] *E.g.*, Annesa Flentje, Nicholas C. Heck & Bryan N. Cochran, *Sexual Reorientation Therapy Interventions: Perspectives of Ex-Ex-Gay Individuals*, 17 J. GAY & LESBIAN MENTAL HEALTH 256 (2013); Elizabeth M. Weiss et al., *A Qualitative Study of Ex-Gay and Ex-Ex-Gay Experiences*, 14 J. GAY & LESBIAN MENTAL HEALTH 291 (2010); Ariel Shidlo & Michael Schroeder, *Changing Sexual Orientation: A Consumer's Report*, 33 PROF. PSYCH.: RESEARCH & PRACTICE 249 (2002).

[4] SANDY E. JAMES ET AL., NAT'L CTR. FOR TRANSGENDER EQUALITY, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY (2016).

[5] 698,000 US LGBT adults ages 18 to 59 are estimated to have received treatment to change their sexual orientation or gender identity [range 572,000 to 857,000]. This figure was calculated by adding estimates for LGB and transgender adults. In order to determine an estimate for the number of LGB adults who have received conversion therapy, we started with the proportion of LGB adults ages 18 to 59 who report having received treatment to change their sexual orientation (6.7%) from the Generations Study, a national probability study of LGB individuals supported by the Eunice Kennedy Shriver National Institute of Child Health & Human Development of the National Institutes of Health under Award Number R01HD078526 (Ilan H. Meyer, PI). The content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institutes of Health. The proportion who received conversion therapy, across three age cohorts (18-25, 34-41, and 52-59), where receipt of conversion therapy did not statistically significantly differ across these age cohorts, is assumed to be consistent for those ages 26 to 33 and 42 to 51 (Williams Institute unpublished analyses). That proportion was then multiplied by the proportion of adults ages 18 to 59 who identify as LGBT (5.29%) in the 2015-2017 Gallup Daily Tracking Survey (Williams Institute unpublished analyses) and the proportion of LGBT individuals ages 18 to 59 who are cisgender (87.7%) among LGBT-identified respondents to the 2014-2015 BRFSS (Williams Institute unpublished analyses), and then applied to the number of adults ages 18 to 59 in the U.S. (180,757,997), according to 2016 population estimates from the 2010 U.S. Census. For total 18-59 population estimates: search American FactFinder, (last visited Dec. 15, 2017) (select advanced search, enter "Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States, States, and Puerto Rico Commonwealth: April 1, 2010 to July 1, 2016" under topic or table name, and select "Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States, States, and Puerto Rico Commonwealth: April 1, 2010 to July 1, 2016" 2016 Population Estimates). The same steps were followed with 95% confidence intervals to calculate a range for each estimate.

In order to determine an estimate for the number of transgender adults who have received conversion therapy, we started with the proportion of transgender adults who report that one or more professionals tried to make them identify only with their sex assigned at birth or try to stop them from being transgender (13.0%), as observed in the U.S. Transgender Survey—the largest purposive sample study of transgender adults to date and reported in JAMES ET AL., *supra* note 4. The proportion who received conversion therapy was multiplied by the proportion of adults ages 18 and older who are estimated to be transgender (0.58%) and then applied to the number of adults ages 18 to 59 in the U.S. (180,757,997). This estimate is likely to be somewhat conservative given that slightly larger proportions of the population identify as transgender among younger age cohorts. For transgender population estimates see ANDREW R. FLORES ET AL., THE WILLIAMS INSTITUTE, HOW MANY ADULTS IDENTIFY AS TRANSGENDER IN THE UNITED STATES? (2016).

[6] Among adults who have received conversion therapy, approximately 49.9% of LGB adults in the Generations Study and 51% of transgender adults in the U.S. Trans Survey are estimated to have received treatment at or before the age of 18. These proportions are applied to the number of LGB and transgender adults ages 18 to 59 who are estimated to have received conversion therapy, as described above. Thus, we estimate that 350,000 LGBT adults [range 287,000 to 429,000] received treatment as adolescents. We believe that our estimate of conversion therapy among cisgender LGB adolescents is, if anything, an underestimate because the Generations Study survey asked about age at which last conversion therapy was received versus the age at which conversion therapy first began. It is possible that some youth received conversion therapy that did not end until age 18 or later and that these individuals are missing in our estimates of the percentage of LGB youth who received conversion therapy. This would lead to an underestimate of the number of current LGB youth currently at risk of conversion therapy.

[7] 20,000 LGBT youth ages 13 to 17 [range 13,000 to 32,000] are estimated to live in states without state-wide conversion therapy bans and will receive conversion therapy from a professional before the age of 18. This figure was calculated by adding estimates for LGB and transgender youth. In order to determine an estimate for the number of LGB youth who will receive conversion therapy before age 18, we multiplied the proportion of LGB adults ages 18 to 59 who report having received treatment from a health care professional to change their sexual orientation that began and ended before the age of 18 (1.2%) from the Generations Study (Williams Institute unpublished analyses) by the proportion of youth in grades 9 through 12 who identify as LGB (8.0%) in the 2015 YRBS and by the proportion of LGB young adults ages 18 to 24 who are cisgender (95.7%) among LGB-identified respondents to the 2014-2015 BRFSS

[14] For methodology, see note 5, *supra*.

[15] For methodology, see note 6, *supra*.

[16] American professional organizations that have issued statements opposing the use of conversion therapy on youth include: American Academy of Child and Adolescent Psychiatry, American Academy of Pediatrics, American Association for Marriage and Family Therapy, American College of Physicians, American Counseling Association, American Medical Association, American School Health Association, American Psychoanalytic Association, American Psychiatric Association, American Psychological Association, American School Counselor Association, and National Association of Social Workers Stewart L. Adelson, *Practice Parameter on Gay, Lesbian, or Bisexual Sexual Orientation, Gender Nonconformity, and Gender Discordance in Children and Adolescents*, 51 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 957 (2012); Am. Acad. of Pediatrics, *Homosexuality and Adolescence*, 92 PEDIATRICS 631 (1993); Am. Assoc. for Marriage and Family Therapy, Positions on Couples and Families: Reparative/Conversion Therapy (Mar. 25, 2009), http://www.aamft.org/iMIS15/AAMFT/Content/about_aamft/position_on_couples.aspx; Hilary Daniel & Renee Butkis, *Lesbian, Gay, Bisexual, and Transgender Health Disparities: Executive Summary of a Policy Position Paper from the American College of Physicians*, 163 ANNALS OF INTERNAL MEDICINE 135 (2015); Am. Counseling Assoc., Ethical Issues Related to Conversion or Reparative Therapy (Jan. 16, 2013), https://www.counseling.org/news/updates/2013/01/16/ethical-issues-related-to-conversion-or-reparative-therapy; Am. Med. Assoc., Policies on Lesbian, Gay, Bisexual, Transgender & Queer (LGBTQ) Issues, H-160.991 Health Care Needs of the Homosexual Population, https://www.ama-assn.org/delivering-care/policies-lesbian-gay-bisexual-transgender-queer-lgbtq-issues (last visited Dec. 1, 2017); Am. Psychoanalytic Assoc., Position Statement on Attempts to Change Sexual Orientation, Gender Identity, or Gender Expression (June 2012), *available at* http://www.apsa.org/content/2012-position-statement-attempts-change-sexual-orientation-gender-identity-or-gender; Am. Psychiatric Assoc.; Position Statement on Therapies Focused on Attempts to Change Sexual Orientation (Reparative or Conversion Therapies) (2000); Barry S. Anton, *Proceedings of the Am. Psychological Assoc. for the Legislative Year 2009: Minutes of the Annual Meeting of the Council of Representatives and Minutes of the Meetings of the Board of Directors*, 65 AM. PSYCHOLOGIST 385 (2010); Am. Psychological Assoc., Resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts (2009); Am. School Counselor Assoc., The Professional School Counselor and LGBTQ Youth (revised 2016), *available at* https://www.schoolcounselor.org/asca/media/asca/PositionStatements/PS_LGBTQ.pdf; Nat'l Assoc. of Social Workers, Nat'l Comm. on Lesbian, Gay, Bisexual, and Transgender Issues, Position Statement: Sexual Orientation Change Efforts (SOCE) and Conversion Therapy with Lesbians, Gay Men, Bisexuals, and Transgender Persons (2015), https://www.socialworkers.org/LinkClick.aspx?fileticket=yH3UsGQQmYI%3d&portalid=0;

[17] Press Release, Am. Counseling Assoc., ACA Advocacy Efforts Assist in Prohibiting 'Conversion Therapy' for Minors in Illinois (Aug. 21, 2015), *available at* https://www.counseling.org/news/news-release-archives/by-year/2015/2015/08/21/aca-advocacy-efforts-assist-in-prohibiting-conversion-therapy-for-minors-in-illinois.

[18] *Id.*

[19] Press Release, U.S. Rep. Ted Lieu, Rep. Lieu Introduces the Therapeutic Fraud Prevention Act of 2017, https://lieu.house.gov/media-center/press-releases/rep-lieu-introduces-therapeutic-fraud-prevention-act-2017.

[20] Doug Kaplan, *Political Climate Forecast for Florida in 2018 Looks Positive for John Morgan, Negative for Gay Conversion Therapy, and Uncertain on the Future of American Involvement in Syria*, ORLANDO POLITICAL OBSERVER, Apr. 3, 2017, http://orlando-politics.com/2017/04/13/political-climate-forecast-for-florida-in-2018-looks-positive-for-john-morgan-negative-for-gay-conversion-therapy-and-uncertain-on-the-future-of-american-involvement-in-syria/.

[21] Gravis Marketing, Virginia Election Poll (May 26, 2017), http://www.gravismarketing.com/polling-and-market-research/virginia-election-poll052016/.

[22] Ctr. for Civil Policy, 2017 Landscape Poll (Jan. 15, 2017), https://civicpolicy.com/2017-landscape-poll/.

[23] Peter Moore, Only 8% of Americans Think Gay Conversion Therapy Works, YOUGOV.COM, June 12, 2014, *available at* https://today.yougov.com/news/2014/06/12/gay-conversion-therapy/.

[24] CAL. BUS. & PROF. CODE § 865 (2017); 2017 Conn. Pub. Acts 5 (Reg. Sess.); D.C. CODE § 7-1231.14 (2017); 405 ILL. COMP. STAT. 48/1 (2017); S.B. 201, 79th Leg., Reg. Sess. (Nev. 2017); N.J. REV. STAT. § 45:1-54 (2016); S.B. 121, 2017 Leg., Reg. Sess. (N.M. 2017); OR. REV. STAT. §§ 675.070; 675.300; 675.336; 675.540; 675.745 (2016); H. 5277, 2017 Gen. Assem., Reg. Sess. (R.I. 2017); VT. STAT. ANN. tit. 18, § 8351; VT. STAT. ANN. tit. 26, §§ 1354(a), 1842(b), 3016, 3210(a), 3271(a), 4042(a), 4062(a), 4132(a).

[25] Some laws apply to other types of health professionals as well. For example, New Mexico's conversion therapy ban applies to nurses and doctors of osteopathic medicine. S.B. 121, 2017 Leg., Reg. Sess. (N.M. 2017)

[26] See note 24, *supra*.

[27] CAL. BUS. & PROF. CODE § 865.

[28] 2017 Conn. Pub. Acts 5 (Reg. Sess.); S.B. 201, 79th Leg., Reg. Sess. (Nev. 2017); S.B. 121, 2017 Leg., Reg. Sess. (N.M. 2017); H. 5277, 2017 Gen. Assem., Reg. Sess. (R.I. 2017).

[29] Press Release, Gov. Andrew M. Cuomo, Governor Cuomo Announces Executive Actions Banning Coverage of Conversion Therapy (Feb. 6, 2016), *available at* https://www.governor.ny.gov/news/governor-cuomo-announces-executive-actions-banning-coverage-conversion-therapy.

[30] In chronological order of passage: Cincinnati, Ohio; Miami Beach, Florida; Seattle, Washington; Wilton Manors, Florida; Miami, Florida; North Bay Village, Florida; West Palm Beach, Florida; Bay Harbor Islands, Florida; Pittsburgh, Pennsylvania; Lake Worth, Florida; Boynton Beach, Florida; El Portal, Florida; Toledo, Ohio; Key West, Florida; Columbus, Ohio; Tampa, Florida; Delray Beach, Florida; Riviera Beach, Florida; Philadelphia, Pennsylvania; Wellington, Florida; Dayton, Ohio; Allentown, Pennsylvania; Greenacres, Florida; Pima County, Arizona; Athens, Ohio; Oakland Park, Florida; Boca Raton, Florida; New York City, New York; Doylestown, Pennsylvania; Reading, Pennsylvania; Palm Beach County, Florida; and Broward County, Florida. Movement Advancement Project, Conversion Therapy Laws, http://www.lgbtmap.org/equality-maps/conversion_therapy (last visited Dec. 4, 2017); North Bay Village, Fla., Ord. No. 2017-004 (enacted Mar. 14, 2017); DELRAY BEACH, FLA., CODE § 133.02 (2017); John McDonald, *Oakland Park Bans Conversion Therapy*, SOUTHFLORIDAGAYNEW.COM, Oct. 19, 2017, http://southfloridagaynews.com/Local/oakland-park-bans-conversion-therapy.html; Brittany Wallman, *Gay-Conversion Therapy Increasingly Outlawed across South Florida*, SUN-SENTINEL.COM, Oct. 13, 2017, http://www.sun-sentinel.com/local/broward/fl-reg-conversion-therapy-ban-20171012-story.html; Skyler Swisher, *Florida County Bans Therapy to Change Kids' Sexual Orientation*, SUN-SENTINEL.COM, Dec. 19, 2017, http://www.sun-sentinel.com/local/palm-beach/fl-reg-conversion-therapy-finalized-20171219-story.html; Ted Scouten, *Broward Bans Forced Conversion Therapy for Gay, Transgender Children*, MIAMI.CBSLOCAL.COM, Jan. 9, 2018, http://miami.cbslocal.com/2018/01/09/conversion-therapy-transgender-gay-children/.

[31] *Id.*

[32] See note 24, *supra*.

[33] 2017 Conn. Pub. Acts 5 (Reg. Sess.); 405 ILL. COMP. STAT. 48/1 (2017).

[34] Ferguson v. JONAH, No. L-5473-12 (N.J. Sup. Ct. Dec. 18, 2015).

[35] For methodology, see note 7.

[36] For methodology, see note 8.

[37] *E.g.* H.B. 717, 2018 Leg., Reg. Sess. (Fla. 2017); S.B. 270, 29th Leg., Reg. Sess. (Haw. 2017).

[38] H.R. 2119, 115th Cong. (2017); S. 928, 115th Cong. (2017).

[39] *Id.*

[40] *Id.*

[41] See note 24, *supra*.

[42] See note 24, *supra*.

[43] See notes 24, 33, and 34, *supra*.

[44] For methodology, see note 9, *supra*.

[45] Am. Psych. Assoc., Resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts, http://www.apa.org/about/policy/sexual-orientation.aspx (last visited Dec. 18, 2017).

Homosexuality and Adolescence

Committee on Adolescence

The American Academy of Pediatrics issued its first statement on homosexuality and adolescence in 1983. The past decade has witnessed increased awareness of homosexuality, changing attitudes toward this sexual orientation, and the growing impact of the human immunodeficiency virus (HIV). Therefore, an updated statement on homosexuality and adolescence is timely.

Homosexuality is the persistent sexual and emotional attraction to members of one's own gender and is part of the continuum of sexual expression. Many gay and lesbian youths first become aware of and experience their sexuality during adolescence. Therefore, pediatricians who care for teenagers need to understand the unique medical and psychosocial issues facing homosexually oriented youths (see Table 1 for a definition of terms).

ETIOLOGY AND PREVALENCE

Homosexuality has existed in most societies for as long as recorded descriptions of sexual beliefs and practices have been available. Societal attitudes toward homosexuality have had a decisive impact on the extent to which individuals have hidden or made known their sexual orientation.

In 1973, the American Psychiatric Association reclassified homosexuality as a sexual orientation/expression rather than as a mental disorder.[1] The etiology of homosexuality remains unclear, but the current literature and the vast majority of scholars in this field state that one's sexual orientation is not a choice, that is, individuals no more choose to be homosexual than heterosexual.[2,3] However, the expression of sexual behaviors and lifestyle is a choice for all teenagers regardless of sexual orientation.

During the adolescent years, many youths engage in sexual experimentation. Sexual behavior during this period does not predict future sexual orientation. Gay, lesbian, and heterosexual youths may engage in sexual activities with members of the same or opposite sex. Kinsey et al,[4,5] from their studies in the 1930s and 1940s, reported that 37% of men had at least one homosexual experience resulting in orgasm. From the same cohort, Kinsey reported that 4% of women and 10% of men were exclusively homosexual for at least 3 years of their lives. Sorenson[6] surveyed a group of 16- to 19-year-olds and reported that 6% of females and 17% of males had at least one homosexual experience. While the Kinsey data suggest that 4% of adult men and 2% of adult women are exclusively homosexual in their behavior and fantasies, the current prevalence of homosexual behavior and identity among adolescents remains to be defined.

SPECIAL CONCERNS

Gay and lesbian adolescents share many of the developmental tasks of their heterosexual peers. These include establishing a sexual identity and deciding on sexual behaviors, whether choosing to engage in sexual intercourse or to abstain. Due to the seriousness of sexually transmitted diseases (STDs), abstinence should be promoted as the safest choice for all adolescents. However, not all youths will choose abstinence. The current reality is that a large number of adolescents are sexually active. Therefore, all adolescents should receive sexuality education and have access to health care resources. It is important to provide appropriate anticipatory guidance to all youths regardless of their sexual orientation. Physicians must also be aware of the important medical and psychosocial needs of gay and lesbian youths.[7]

HIV

The epidemic of the HIV infection highlights the urgency of making preventive services and medical care available to all adolescents regardless of sexual orientation or activity. Heterosexual and homosexual transmission of HIV infection is well established. The role of injectable drugs of abuse in HIV transmission is also well known.[3,8] Sex between males accounts for about half of the non–transfusion-associated cases of acquired immunodeficiency syndrome (AIDS) among males between the ages of 13 and 19 years.[8] While not all gay adolescents engage in high-risk sex (or even have sex), their vulnerability to HIV infection is well recognized. The pediatrician should encourage adolescents to practice abstinence. However, many will not heed this important message. Thus, practical, specific advice about condom use and other forms of safer sex should be included in all sexuality education and prevention discussions.

Issue of Trust

Quality care can be facilitated if the pediatrician recognizes the specific challenges and rewards of providing services for gay and lesbian adolescents. This care begins with the establishment of trust, respect, and confidentiality between the pediatrician and the adolescent. Many gay and lesbian youths avoid health care or discussion of their sexual orientation out of fear that their sexual orientation will be

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TABLE 1. Definitions of Terms

Coming out	The acknowledgment of one's homosexuality and the process of sharing that information with others.
Gender identity	The personal sense of one's integral maleness or femaleness; typically occurs by 3 years of age.
Gender role	The public expression of gender identity; the choices and actions that signal to others a person's maleness or femaleness; one's sex role.
Heterosexist bias	The conceptualization of human experience in strictly heterosexual terms and consequently ignoring, invalidating, or derogating homosexual behaviors and sexual orientation.[19]
Homophobia	The irrational fear or hatred of homosexuality, which may be expressed in stereotyping, stigmatization, or social prejudice[18]; it may also be internalized in the form of self-hatred.
In the closet	Nondisclosure or hiding one's sexual orientation from others.
Sexual orientation	The persistent pattern of physical and/or emotional attraction to members of the same or opposite sex. Included in this are homosexuality (same-gender attractions); bisexuality (attractions to members of both genders); and heterosexuality (opposite-gender attractions). The terms preferred by most homosexuals today are lesbian women or gay men.
Transsexual	An individual who believes himself or herself to be of a gender different from his or her assigned biologic gender (gender identity does not match anatomic gender).
Transvestite	An individual who dresses in the clothing of the opposite gender and derives pleasure from this action. This is not indicative of one's sexual orientation.

disclosed to others. The goal of the provider is not to identify all gay and lesbian youths, but to create comfortable environments in which they may seek help and support for appropriate medical care while reserving the right to disclose their sexual identity when ready. Pediatricians who are not comfortable in this regard should be responsible for seeing that such help is made available to the adolescent from another source.

SPECIAL ASPECTS OF CARE

History

A sexual history that does not presume exclusive heterosexuality should be obtained from all adolescents.[3,9] Confidentiality must be emphasized except in cases in which sexual abuse has occurred. It is vital to identify high-risk behavior (anal or vaginal coitus, oral sex, casual and/or multiple sex partners, substance abuse, and others).

Physical Examination

A thorough and sensitive history provides the groundwork for an accurate physical examination for youths who are sexually experienced.[10] Depending on the patient's sexual practices, a careful examination includes assessment of pubertal staging, skin lesions (including cutaneous manifestations of STDs, bruising, and other signs of trauma), lymphadenopathy (including inguinal), and anal pathology (including discharge, venereal warts, herpetic lesions, fissures, and others). Males need evaluation of the penis (ulcers, discharge, skin lesions), scrotum, and prostate (size, tenderness). Females need assessment of their breasts, external genitalia, vagina, cervix, uterus, and adnexa.

Laboratory Studies

All males engaging in sexual intercourse with other males should be routinely screened for STDs, including gonorrhea, syphilis, chlamydia, and enteric pathogens. The oropharynx, rectum, and urethra should be examined and appropriate cultures obtained when indicated.[3,9]

Immunity to hepatitis B virus should be assessed. Immunization is recommended for all sexually active adolescents and should be provided for all males who are having or anticipate having sex with other males.[11] HIV testing with appropriate consent should be offered; this includes counseling before and after voluntary testing.

Women who have sex exclusively with other women have a low incidence of STDs, but can transmit STDs and potentially HIV if one partner is infected. Since lesbian women who engage in unprotected sex with men face risks of both sexually acquired infections and pregnancy, the pediatrician should offer them realistic birth control information and counseling on STD prevention.

PSYCHOSOCIAL ISSUES

The psychosocial problems of gay and lesbian adolescents are primarily the result of societal stigma, hostility, hatred, and isolation.[12] The gravity of these stresses is underscored by current data that document that gay youths account for up to 30% of all completed adolescent suicides.[13] Approximately 30% of a surveyed group of gay and bisexual males have attempted suicide at least once.[14] Adolescents struggling with issues of sexual preference should be reassured that they will gradually form their own identity[15] and that there is no need for premature labeling of one's sexual orientation.[16] A theoretical model of stages for homosexual identity development composed by Troiden[17] is summarized in Table 2. The health care professional should explore each adolescent's perception of homosexuality, and any youth struggling with sexual orientation issues should be offered appropriate referrals to providers and programs that can affirm the adolescent's intrinsic worth regardless of sexual identity. Providers who are unable to be objective because of religious or other personal convictions should refer patients to those who can.

Gay or lesbian youths often encounter considerable difficulties with their families, schools, and communities.[16,18,19] These youths are severely hindered by societal stigmatization and prejudice, limited knowledge of human sexuality, a need for secrecy, a lack of opportunities for open socialization, and limited communication with healthy role models. Subjected to overt rejection and harassment at the hands of family members, peers, school officials, and others

TABLE 2. Stages of Homosexual Identity Formation*

Sensitization	The feeling of differentness as a prepubertal child or adolescent. The first recognition of attraction to members of the same gender before or during puberty.
Sexual identity confusion	Confusion and turmoil stemming from self-awareness of same-gender attractions. Often this first occurs during adolescence. This confusion usually is not so much due to a questioning of one's feelings as it is to the attempt to reconcile the feelings with negative societal stereotypes. The lack of accurate knowledge about homosexuality, the scarcity of positive gay and lesbian role models, and the absence of an opportunity for open discussion and socialization as a gay or lesbian person contribute to this confusion. During this stage the adolescent develops a coping strategy to deal with social stigma.
Sexual identity assumption	The process of acknowledgment and social and sexual exploration of one's own gay or lesbian identity and consideration of homosexuality as a lifestyle option. This stage typically persists for several years during and after late adolescence.
Integration and commitment	The stage at which a gay or lesbian person incorporates his/her homosexual identity into a positive self-acceptance. This gay or lesbian identity is then increasingly and confidently shared with selected others. Many gays and lesbians may never reach this stage; those who do are typically in adulthood when this acceptance occurs.

* From Troiden.[17]

in the community, they may seek, but not find, understanding and acceptance by parents and others. Parents may react with anger, shock, and/or guilt when learning that their child is gay or lesbian.

Peers may engage in cruel name-calling, ostracize, or even physically abuse the identified individual. School and other community figures may resort to ridicule or open taunting, or they may fail to provide support. Such rejection may lead to isolation, runaway behavior, homelessness, domestic violence, depression, suicide, substance abuse, and school or job failure. Heterosexual and/or homosexual promiscuity may occur, including involvement in prostitution (often in runaway youths) as a means to survive. Pediatricians should be aware of these risks and provide or refer such youths for appropriate counseling.

Disclosure

The gay or lesbian adolescent should be allowed to decide when and to whom to disclose his/her sexual identity. In particular, the issue of informing parents should be carefully explored so that the adolescent is not exposed to violence, harassment, or abandonment. Parents and other family members may derive considerable benefit and gain understanding from organizations such as Parents and Friends of Lesbians and Gays (PFLAG).[3,18]

Concept of Therapy

Confusion about sexual orientation is not unusual during adolescence. Counseling may be helpful for young people who are uncertain about their sexual orientation or for those who are uncertain about how to express their sexuality and might profit from an attempt at clarification through a counseling or psychotherapeutic initiative. Therapy directed specifically at changing sexual orientation is contraindicated, since it can provoke guilt and anxiety while having little or no potential for achieving changes in orientation. While there is no current literature clarifying whether sexual abuse can induce confusion in one's sexual orientation, those with a history of sexual abuse should always receive counseling with appropriate mental health specialists. Therapy may also be helpful in addressing personal, family, and environmental difficulties that are often concomitants of the emerging expression of homosexuality. Family therapy may also be useful and should always be made available to the entire family when major family difficulties are identified by the pediatrician as parents and siblings cope with the potential added strain of disclosure.

SUMMARY OF PHYSICIAN GUIDELINES

Pediatricians should be aware that some of the youths in their care may be homosexual or have concerns about sexual orientation. Caregivers should provide factual, current, nonjudgmental information in a confidential manner. These youths may present to physicians seeking information about homosexuality, STDs, substance abuse, or various psychosocial difficulties. The pediatrician should ensure that each youth receives a thorough medical history and physical examination (including appropriate laboratory tests), as well as STD (including HIV) counseling and, if necessary, appropriate treatment. The health care professional should also be attentive to various potential psychosocial difficulties and offer counseling or refer for counseling when necessary.

The American Academy of Pediatrics reaffirms the physician's responsibility to provide comprehensive health care and guidance for all adolescents, including gay and lesbian adolescents and those young people struggling with issues of sexual orientation. The deadly consequences of AIDS and adolescent suicide underscore the critical need to address and seek to prevent the major physical and mental health problems that confront gay and lesbian youths in their transition to a healthy adulthood.

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