



# **Protecting LGBT Youth from “Conversion Therapy” in New York State**

**A Report on the May 15, 2014 Public Forum**



**New York State Senator Brad Hoylman**

## **Introduction**

On May 15, 2014, a public forum was held in New York City on legislation carried by Senator Brad Hoylman (S.4917-B) and Assembly Member Deborah Glick (A.6983-B) that would prohibit licensed mental health professionals from engaging in so-called “conversion therapy” with minors.

Testimony was presented at the public forum by two dozen panelists, which included former subjects of conversion therapy, as well as representatives from leading mental health professional associations, legal experts, members of the clergy, and LGBT advocates. Written testimony was submitted by several others, all of which was been compiled and reviewed by legislative staff in preparation for this report.

Several common themes arose during the forum, underscoring the need for New York State to enact legislation barring licensed mental health professionals from engaging in the practice of “conversion therapy.” Each of these findings is discussed more thoroughly below.

### **Key Findings**

- “Conversion therapy” is practiced in New York State, including by licensed mental health professionals.
- The subjects of “conversion therapy” report that it was ineffective and degrading, and resulted in numerous negative outcomes including depression and suicidal thoughts.
- The unanimous consensus among major mental health professional association corroborates the anecdotal evidence shared by “conversion therapy” subjects: the practice is ineffective and poses harmful and potentially life-threatening risks, particularly to minors.
- Mental health professionals and legal experts agree that legislation prohibiting licensed mental health professionals from engaging in “conversion therapy” with minors is an appropriate and necessary use of New York State’s ability to regulate professional conduct.

## **Frequently Asked Questions About S.4917-B/A.6983-B**

### **What does the bill do?**

The bill states that it is professional misconduct for certain health and mental health professionals licensed by New York State to practice sexual orientation change efforts on persons younger than 18 years old.

### **What are “sexual orientation change efforts”?**

Sometimes referred to as “conversion therapy” or “reparative therapy,” sexual orientation change efforts are practices that seek to change an individual’s sexual orientation or gender identity, or that seek to eliminate or reduce sexual or romantic attractions or feelings towards individuals of the same sex.

They do not include counseling for a person seeking to transition from one gender to another, nor do they include counseling to prevent or address unlawful or unsafe conduct or sexual practices.

### **To whom does this bill apply?**

The bill generally applies to New York State licensed psychologists, psychiatrists, social workers, mental health practitioners, and physicians.

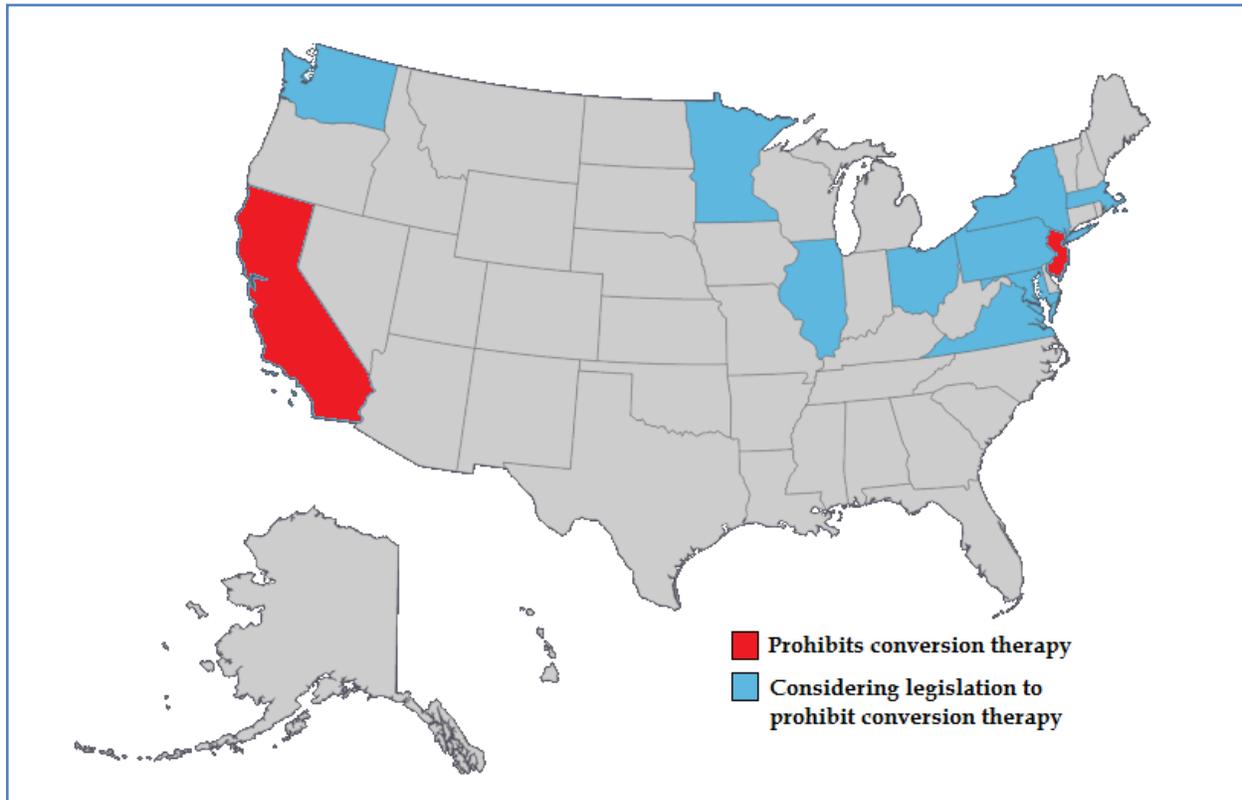
The bill does not apply to members of the clergy, parents, or anyone else who is not a New York State licensed mental health professional.

### **What is the penalty for practicing sexual orientation change efforts upon minors?**

The bill classifies the practice of sexual orientation change efforts upon minors as professional misconduct, which is punishable by the Board of Regents under the New York State Education Law. Penalties range from censure, to suspension or revocation of a license, to a civil penalty of up to \$10,000.

### Have any other states passed similar laws?

California and New Jersey enacted substantively identical legislation in 2012 and 2013, respectively. In each instance the legislation was passed with bipartisan support. Similar bills have been introduced in the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, Ohio, Pennsylvania, Washington, and Virginia.



### Is this legislation constitutional?

Yes. Substantively identical legislation has been upheld as a constitutional exercise of a state's power to regulate professional conduct by the United States Court of Appeals for the Ninth Circuit and the Federal District Court of New Jersey.

See Pickup v. Brown, 728 F.3d 1042 (9th Cir. 2013) and King v. Christie, 2013 U.S. Dist. LEXIS 160035 (D.N.J. 2013) for more information.

## Discussion of Testimony

### Personal Stories

Mathew Shurka, joined by his mother and sister, recounted the five years of “therapy” he was subjected to, starting at age 16. He was told that there was no such thing as homosexuality, and that men experienced sexual attraction towards other men because of a “void in their masculinity,” a condition that his licensed therapist claimed could be corrected.

His therapist directed him to limit his interactions and conversations with his mother and sisters, and as a result, he barely spoke to them for two years. He was provided pornography and Viagra to aid him in pursuing heterosexual sexual encounters. After seeing four therapists over five years, Mathew, now 21 years old, ended the therapy and gradually came out as openly gay.

Another panelist, Mordechai Levovitz, spoke of being shamed by a licensed therapist whenever he would speak with a lisp, cross his legs, or hold his wrist in a certain way. Mordechai, who is now a social worker working with LGBT youth in the Orthodox Jewish community, reported that some of minors he works with who had been subjected to conversion therapy were shown pictures of AIDS patients, made to read aloud descriptions of anal cancer and other diseases, and directed to undress and touch their genitals in front of their therapists.

*One panelist described how his therapist attached electrodes to his hands and genitals, shocking him with electricity when he displayed physiological signs of arousal.*

Yet another panelist, Dean Dafis, described how his therapist attached electrodes to his hands and genitals, shocking him with electricity when he displayed physiological signs of arousal upon viewing homosexual pornography. His therapist was a licensed psychotherapist affiliated with an Ivy League university.

Mathew’s mother, Jane Shurka, testified about her guilt for her role in facilitating her son’s therapy. She felt that the fact that licensed mental health professionals offered “conversion therapy” lent the practice professional respectability and took advantage of her ignorance about sexual orientation. Jane, along with Mathew’s sister, Melanie

Shurka, testified that had they known that “conversion therapy” was widely discredited, they would have advised Mathew not to undertake it.

David Dinielli, the Deputy Legal Director of the Southern Poverty Law Center, stated that Jane’s experience was not uncommon. Parents, desperate to help their children, turn to people they perceive to be knowledgeable, particularly licensed and credentialed health and mental professionals. “Well-intentioned parents,” Mr. Dinielli noted, “should not be duped by practitioners who choose to espouse beliefs about sexual orientation that directly conflict with the consensus views of all major mental health organizations.”

### **Mental Health Professionals**

The personal stories from the forum all shared two major similarities: the so-called “therapy” failed to alter the subjects’ sexual orientation, and the subjects uniformly all experienced a combination of negative outcomes in the wake of the failed “therapy,” including guilt and shame, frustration, disappointment, withdrawal from family, poor academic performance, drug abuse, depression, and suicidal thoughts.

The mental health professionals who testified at the forum said they were not surprised at these reports. For over 40 years, it has been the consensus in the health and mental health professions that homosexuality and bisexuality are not considered disorders or abnormalities. Dr. Dinelia Rosa, the President of the New York State Psychological Association, pointed out that no major mental health professional organization endorses sexual orientation change efforts, and virtually all of them have adopted official policy statements against the practice (see sidebar, right).

There is no evidence to suggest that sexual orientation change efforts are even successful. Dr. Jack Drescher, appearing on behalf of the New York State Psychiatric Association, noted that “it is the consensus of most professional organizations that sexual orientation change

**The following professional organizations have issued statements or adopted policies against the practice of conversion therapy:**

American Academy of Child and Adolescent Psychiatry

American Academy of Pediatrics

American Counseling Association

American Medical Association

American Psychoanalytical Association

American Psychological Association

American Psychiatric Association

American School Counselor Association

National Association of Social Workers

Pan American Health Organization

efforts are outside the mainstream of mental health practice. The theories upon which they are based have no scientific basis.”

Mr. Dinielli, who is currently litigating a conversion therapy case in New Jersey on consumer fraud grounds, shared his experience from depositions of approximately 20 adult men who claimed to have successfully changed from gay to straight:

“Once we put [these men] under oath, we learned that some of them have been able to reduce the frequency of their same-sex sexual encounters, but still occasionally [...] ‘act out,’ as it is called in the conversion therapy business. Some of them have been able to stop having sex with men, but still fantasize [about] it and have to keep pornography blocks on their computers and smartphones to avoid looking at gay porn. Some of them claim they are heterosexual but really have just become celibate. People who claim to be heterosexual as a result of [sexual orientation change efforts] may have a very different understanding of what that means than you or I likely do.”

Several of the mental health experts who testified explained that sexual orientation change efforts can be extremely harmful.

Dr. Ariel Shidlo, the co-researcher of a landmark study of over 200 individuals who had experienced sexual orientation change efforts, explained: “When consumers of [sexual orientation change efforts] fail to change, they blame themselves and often experience depression and even suicidal ideation. [...] Failure is framed as the result of the client not trying hard enough, not of a defective and fraudulent intervention.”

*Conversion therapy is harmful because it presents the view that the sexual orientation of LGBT youth is a mental illness or disorder.*

“Such efforts are potentially harmful because they present the view that the sexual orientation of LGBT youth is a mental illness or disorder,” testified Dr. Rosa, “and they often frame the inability to change one’s sexual orientation as a personal or moral failure.”

### **Policy & Legal Experts**

Assemblyman Tim Eustace, who sponsored similar legislation in New Jersey, spoke about the broad bipartisan support his bill had in the state legislature, noting that “protecting our children is not a partisan issue.”

Assemblyman Eustace pointed out that opposition to his bill did not come from licensed mental health professionals nor mainstream religious groups. He said both groups recognized that the legislation did not curtail their rights to practice their professions nor their religions – a fact which was subsequently confirmed by federal court rulings in California and New Jersey.

Mr. Dinielli, who helped draft the original California legislation, explained: “The government has broad latitude to regulate the practice of licensed professions in order to ensure compliance with professional standards of competence and ethics, and to protect clients and the public,” drawing an analogy to other professional standards imposed on physicians or attorneys.

Dr. Shidlo addressed the issue of whether the legislation could be construed as an infringement of free speech. He noted that “our society does not allow physicians to offer interventions based on fraud and pseudo-science just because we value freedom of speech and consumer choice. We outlaw ‘snake oil’ cures because we, as a society, believe that vulnerable patients who are in distress need to be protected from false and harmful interventions.”

Echoing Dr. Shidlo and the federal court decisions in California and New Jersey, Mr. Dinielli testified that in many instances states regulate professional practice, even when the practice involves speech. “The state is well within its authority to prohibit this particular treatment,” he asserted, “despite the fact that practitioners who attempt to change their patients’ orientations use words, rather than surgery or pills.”

David Castleman, an attorney and co-founder of Trevor Project NextGen, described the legal rationale for this legislation as “the state saying that it is professional misconduct when a licensed mental health professional practices this widely discredited and harmful treatment on a minor.”

## **Further Information**

For more information about the legislation to prohibit licensed mental health professionals from practicing sexual orientation change efforts on minors, please contact Burton Phillips, Counsel & Policy Director for Senator Brad Hoylman, at (518) 455-2451.

## **Acknowledgements**

We wish to thank those who testified at the May 15, 2014 public forum, including **Rev. Pat Bumgardner**, Metropolitan Community Church of New York; **David Castleman**, Co-Founder, Trevor Project NextGen; **Jason Cianciotto**, Director of Public Policy Development, Gay Men’s Health Crisis; **Dean Dafis**; **Dr. Jack Drescher**, New York State Psychiatric Association; **David Dinielli**, Deputy Legal Director, Southern Poverty Law Center; **the Honorable Tim Eustace**, New Jersey Assemblyman; **Jason Daniel Fair**, the Trevor Project; **Hayley Gorenberg**, Deputy Legal Director, Lambda Legal; **Rev. David Starbuck Gregory**, United Church of Christ; **Ryan Kendall**; **Thomas Krever**, Executive Director, Hetrick-Martin Institute; **Mordechai Levovitz**, Co-Executive Director, JQY; **Dr. Jack Levy**; **Dr. Andrew Livanis**, New York Association of School Psychologists; **Pastor Chad Tanaka Pack**, Middle Collegiate Church; **Dr. Dinelia Rosa**, President, New York State Psychological Association; **Jacob Rudolph**; **Maya Rupert**, Policy Director, National Center for Lesbian Rights; **Nathan Schaefer**, Executive Director, Empire State Pride Agenda; **Dr. Ariel Shidlo**, Research Institute Without Walls; **Jane Shurka**; **Mathew Shurka**; **Melanie Shurka**; and **Dr. Tamara Sullivan**, American Counseling Association-NY.

We would also like to thank **Senator Michael Gianaris** and **Assembly Member Deborah Glick** for co-hosting the public forum, and **Senator Bill Perkins** and **Council Member Ritchie Torres** for attending the forum and helping drive the conversation with their insightful questions.

Also, special thanks to **Burton Phillips**, Counsel & Policy Director for Senator Brad Hoylman, who assisted with the preparation of this report, **David Rozen**, Counsel for Senator Michael Gianaris, and New York State Senate staff member **Franci Schwartz** for her assistance in organizing the public forum.

*Cover photo: Senator Michael Gianaris, Senator Brad Hoylman, and Assembly Member Deborah Glick at the May 15, 2014 public forum.*